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1
                     UNITED STATES DISTRICT COURT
 2
          CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
 3
           HONORABLE ANDRÉ BIROTTE JR., U.S. DISTRICT JUDGE
 4
 5
     THUNDER STUDIOS, INC.; RODRIC
    DAVID,
 6
                     PLAINTIFFS,
 7
               vs.
                                      ) No. CV 17-0871-AB
 8
     CHARIF KAZAL; TONY KAZAL;
 9
     ADAM KAZAL; AND DOES 1 TO 100,
     INCLUSIVE,
10
                    DEFENDANTS.
11
12
13
14
                 REPORTER'S TRANSCRIPT OF PROCEEDINGS
15
                      THURSDAY, DECEMBER 6, 2018
16
                               9:19 A.M.
17
                        LOS ANGELES, CALIFORNIA
18
                   Day 2 of Jury Trial, A.M. Session
19
20
21
22
23
                  CHIA MEI JUI, CSR 3287, CCRR, FCRR
                    FEDERAL OFFICIAL COURT REPORTER
2.4
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                    LOS ANGELES, CALIFORNIA 90012
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LOS ANGELES, CALIFORNIA; THURSDAY, DECEMBER 6, 2018
 1
 2
                               9:19 A.M.
 3
 4
          (The following was heard in open court outside the
 5
          presence of the jury:)
 6
               THE CLERK: Calling CV 17-0871-AB, Thunder
 7
     Studios, Inc., versus Charif Kazal, et al., jury trial,
 8
     Day 2.
 9
               Counsel, please state your appearances.
10
               MR. WIENER: Good morning, Your Honor.
11
     Seth Wiener for plaintiffs.
               THE COURT: Good morning.
12
13
               MR. TAYLOR: Good morning, Your Honor. Steven
14
     Gebelin, also on behalf of plaintiffs.
15
               THE COURT: Good morning.
16
               MR. TAYLOR: And good morning, Your Honor.
17
     Benjamin Taylor on behalf of the defendants.
               MS. BANI-ESRAILI: Good morning, Your Honor.
18
19
    Diane Bani-Esraili for the defendant.
20
               THE COURT: Good morning to you all.
21
               All right. So I understand there's an issue with
22
     respect to a witness. I don't know which side wants to
23
    discuss further.
24
               MR. WIENER: Yes, Your Honor. Seth Wiener for
25
    plaintiffs.
```

```
1
               The issue is a witness named Michael Hammond, who
 2
     is situated in Sydney, Australia. We'd originally planned
 3
     to have him testify on Wednesday; he made travel
 4
     arrangements contingent on that, and as the Court's aware,
 5
     Wednesday was the day of mourning.
               Mr. Hammond was unable to get a ticket for today
 6
 7
     and also was unable to get released from work. He is a DJ
 8
     on the air today. So we're asking that he be taken out of
     turn on Friday. His testimony is anticipated to be about 30
 9
     minutes at most.
10
11
               THE COURT: You said tomorrow?
12
               MR. WIENER: No, on Monday.
13
               THE COURT:
                           Okay. Let me make sure I understand.
14
     So he can be here Monday?
15
               MR. WIENER: Correct.
16
               THE COURT: And you're asking to have him be taken
17
                   I'm not sure. What do you mean by that? Do
     out of turn.
18
    you anticipate your case will be done today?
19
               MR. WIENER: Plaintiffs expect that our case will
20
    be closed today with the exception of Mr. Hammond.
21
               THE COURT: Okay. Is there any objection to that
22
    proposal?
23
               MR. TAYLOR: We would object, Your Honor, for a
24
     few reasons. Your Honor, obviously, the national day of
25
    mourning was beyond all of our control, but, based on the
```

```
1
     representations by counsel on Tuesday about what he intended
 2
     to do today, we made arrangements not only for my client to
     change his flight from the weekend to Tuesday, which cost
 3
 4
     him a lot of money -- obviously, an extra hotel and change
 5
     fees -- but for the third-party witnesses we intended to
     call today to come on Monday. So it creates problems in
 6
 7
     terms of cost and timing and scheduling from our
     perspective.
 8
 9
               THE COURT: Okay. Help me understand that a
     little clearer.
10
11
               You are saying that Mr. Kazal has now agreed to
12
     stay till next week?
               MR. TAYLOR: Right. If Your Honor recalls, there
13
14
     was an issue about calling him out of turn --
15
               THE COURT: Right.
16
               MR. TAYLOR: -- I said I had to speak with him.
17
     We talked after court adjourned on Tuesday, and he was able
     to arrange to change his ticket. You know, it's not
18
19
     necessarily a given. So he was able to make that
20
     arrangement.
21
               It cost him a significant amount of money, and he
22
    has to now stay in a hotel three extra nights. And so that
23
     was all done based on the assumption he wouldn't
24
    be called -- you know, he wouldn't be called out of order
25
    because he could now stay until Monday. Now counsel is
```

```
1
     saying, well, we have to call our witness out of order.
 2
               It just creates problems for our scheduling
     because I've also told the other witnesses I intend to call
 3
 4
     that they're not going to be needed today because I had
 5
     assumed Mr. Hammond would also be testifying and that we
     would be able to read in the deposition transcripts into the
 6
 7
     record today.
 8
               THE COURT: Okay. So let me -- who do you intend
     on calling today, Mr. Wiener? You are going to continue
 9
10
     with Mr. David?
11
               MR. WIENER: Right.
12
               THE COURT: And then who else?
               MR. WIENER: It will be Paul Kolesa. His
13
14
     testimony is anticipated, I believe, to be 30 minutes to one
15
    hour, then the wife of Rodric David, Elizabeth David.
16
     testimony is expected to be about 45 minutes.
17
               THE COURT: Okay. And then after that you're
     going to rest with the -- well, then it would be Mr. Hammond
18
19
     if he was here.
20
               MR. WIENER: Correct --
21
               THE COURT: Hold on one second.
22
               MR. WIENER: Yeah. Mr. Taylor and I would likely
23
     use the two depo transcripts as a gap filler, and they're
     estimated to be about 30 minutes.
24
25
                           Okay. So then we'll go with
               THE COURT:
```

```
1
     Mr. David, Mrs. David, depo testimony, and then that would
 2
    be it for today.
 3
               MR. WIENER: Yeah. And also Mr. Kolesa.
               THE COURT: I'm sorry. Mr. Kolesa as well. Okay.
 4
 5
     That would be it for today. And then on Monday you would
     call, based on your proposal, Mr. Hammond -- correct? --
 6
 7
     Mr. Wiener?
 8
               MR. WIENER: Yes, that's correct.
 9
               THE COURT: And then you would begin your case.
     And who do you anticipate calling, if you care to share at
10
     this time?
11
12
               MR. TAYLOR: Of course, Your Honor. Mr. Kazal.
13
               THE COURT:
                           Right.
14
               MR. TAYLOR: And between his direct and cross, it
15
     could be a few hours. And then I guess we'll be able to
16
     read in the deposition transcripts of the other
17
     defendants -- Tony and Adam, today. That would take care of
18
     their testimony, I suppose.
19
               Then we have two other third-party witnesses,
20
     Mr. Woodward and Mr. Parlata, who I told would likely not
21
    have to come in today because they would be here all day and
22
     not testify based on what happened Tuesday. So that's the
23
    plan for us.
24
               THE COURT: Okay. The reason why I ask all these
     questions is I'm not sure I see what the issue is. If we go
25
```

```
with Kolesa, Mr. and Mrs. David, and deposition transcript,
 1
 2
     maybe we'll end early. I'm not happy about that, but it is
 3
     what it is given the change in schedule because of the day
 4
     of mourning.
 5
               If we end today with that and then on Monday we
     resume with Mr. Kazal and the other witnesses and
 6
 7
     Mr. Hammond, where is the prejudice to you as it relates to
 8
     calling Mr. Hammond out of order?
 9
               MR. TAYLOR: Well, I don't suppose there's actual
     prejudice, Your Honor. It's just counsel made certain
10
11
     representations. His witness would have been here already;
12
     so he could have stayed a second day, and now he can't be
13
    here until Monday.
14
               So it creates a certain consternation, at the very
15
     least, that my client rearranged his whole schedule and
16
     incurred a lot of fees and costs based on what counsel
17
     represented Tuesday and now further changes --
18
               THE COURT:
                          Okay.
19
               MR. TAYLOR: That's the extent of it, Your Honor.
               THE COURT: All right. Look. In the interest of
20
21
     time so we can get this trial moving, your objection is
22
     noted but overruled. We've got witnesses coming from all
23
     over the country. I apologize. It's an inconvenience to
24
    you, but the reality of it is we've got to get this case to
25
     the jury, and I want to do whatever we can to get that to a
```

```
1
     jury.
 2
               So is there anything further that we need to
     discuss this morning?
 3
               MR. TAYLOR: I don't believe so, Your Honor.
 4
 5
               MR. WIENER: No, Your Honor.
               THE COURT: So, then, let me just confer with my
 6
 7
     courtroom deputy.
 8
               So let's bring in the jury.
 9
               And Mr. David, you can resume the witness stand.
10
     So we can resume your testimony.
               And, Counsel, just -- I don't know. I guess there
11
12
     are some depo transcripts on the screen. So if it's on my
     screen, it's presumably on the screen of the jurors as well.
13
14
     So please keep that in mind. You may need to unplug it from
15
     the connection because it's on their screen right now.
16
               MR. GEBELIN: I can see it. I am trying to make
17
     sure that that screen is separate and will be blank when we
18
     don't have an exhibit up.
19
               THE COURT: Okay.
20
               MR. GEBELIN: Take me about two seconds to do it.
21
     And if they start coming out before I'm done, I'm going to
22
     unplug it.
23
               THE COURT: All right. Perfect.
24
          (The following was heard in open court in the presence
25
           of the jury:)
```

```
1
                           Good morning, ladies and gentlemen.
               THE COURT:
 2
     Thank you for braving the weather this morning. I
 3
     appreciate it. We are ready to resume.
 4
               We were -- I believe, Mr. Taylor, you were doing
 5
     cross-examination. You may continue.
 6
                            Thank you, Your Honor.
               MR. TAYLOR:
 7
                            RODRIC DAVID,
       the Plaintiff herein, recalled as a witness on his own
 8
 9
                               behalf,
                 having been previously duly sworn,
10
                     testified further as follows:
11
12
                      CROSS-EXAMINATION (RESUMED)
    BY MR. TAYLOR:
13
14
     Q
          Good morning, Mr. David.
15
          Good morning.
     Α
16
     Q
          You understand that you're still under oath?
17
          I do.
     Α
18
          Now, you testified on Tuesday that the Cayman Islands
19
     Court reversed the conversion of debt to equity in Emergent
20
     Capital; correct?
21
          It did.
22
          And that was in 2011?
23
          It may have been early 2012 but late '11, early '12,
24
     around there.
25
               MR. TAYLOR: I'm sorry, Your Honor. I don't know
```

```
if it's the microphone. I can't hear the --
 1
 2
               THE WITNESS: Sorry.
 3
               I am not specifically sure. Late '11, early '12.
     BY MR. TAYLOR:
 4
 5
          And the debt conversion was about $49,900; is that
     right?
 6
 7
          I don't recall the specifics. I don't know. I don't
 8
     recall.
 9
          But the board of directors vote that was at issue
     converted the debt -- whatever it was -- to equity,
10
11
     50 percent equity, in a company that was worth about
12
     $25 million; right?
13
          That's incorrect, no.
14
     Q
          Which part of that is wrong?
15
          The valuation of the company at the time.
16
          Well, didn't the company sell for about $25 million in
     Q
17
     2011?
          I don't recall the date of the sale. The conversion of
18
19
     debt to equity was done actually in 2010 prior to the
20
     finality of the lawsuit regarding than subsidiary business.
21
     The auditor's report we had received in 2010 --
22
               THE REPORTER: Please repeat that.
23
               THE WITNESS: Oh, auditor's report.
24
               The auditor's report we had received
25
     contemporaneously at that time suggested that the value of
```

- 1 | the company was nil at that time.
- 2 BY MR. TAYLOR:
- 3 Q When you say "the company," you mean Emergent Capital?
- 4 A No, the subsidiary company. It was specific to Global
- 5 Renewables in Australia.
- 6 Q The report said the value of Global Renewables was nil
- 7 | at the time?
- 8 A Yes.
- 9 0 But didn't you testify Tuesday that it sold for
- 10 | \$25 million in 2011 to Iron Bridge?
- 11 A Yeah. So we were talking about the audit trial that
- 12 | was done by the -- I can't remember the auditors at the
- 13 | time -- that the audit that was done -- I believe it was
- 14 2010. So it was 18 months to two years prior, and in
- 15 between that there was a judgment in a lawsuit between
- 16 | Global Renewables Australia and the New South Wales
- 17 government that was --
- 18 THE REPORTER: Please repeat that.
- 19 THE WITNESS: New South Wales government that made
- 20 | the business viable. Up to that point, it was losing
- 21 significant amounts of money. Sorry.
- 22 BY MR. TAYLOR:
- 23 | Q Well, the Court order in the Cayman Islands -- whether
- 24 | it was issued in 2011 or 2012 -- you read that Court order;
- 25 | right? At the time?

- A Contemporaneously at the time, yes.
- 2 Q Now, in its order the Court -- the Cayman Court in its
- 3 order concluded that, as a director, you had breached your
- 4 | fiduciary duties to the company, to ECL; isn't that true?
- 5 A In the liquidation hearing, there was an adverse
- finding that the directors, plural, made a breach of
- 7 | fiduciary duty because the judge thought we should have
- 8 | considered a rights issue instead, but there was no
- 9 | testimony specific to that issue because it was a
- 10 liquidation hearing.
- 11 Q And you were one of the directors; correct?
- 12 A Yes, I was.
- 13 | Q Now, you also testified on Tuesday about the ICAC
- 14 inquiry and that you learned about it after being subpoenaed
- 15 in 2011.

- Do you recall that testimony?
- 17 A Yes.
- 18 | Q So you had not been in contact with anyone relating to
- 19 | the ICAC inquiry before receiving the subpoena in 2011?
- 20 A Certainly not in regards to the ICAC, no.
- 21 | Q I'm not sure I understand what you're saying. It's a
- 22 | yes or no question.
- 23 A Well, I was -- I was aware of an ICAC inquiry through
- 24 research online. It was a newspaper article -- I want to
- 25 | say 2010 -- that there was an ICAC inquiry on the Kazals'

```
1
     leases and the Rocks. So I am aware of that one as a
 2
     separate issue.
 3
          Well, isn't that the same inquiry that we're talking
 4
     about?
 5
          No, no, they're two different -- two specifically
     different inquiries.
 6
 7
          Well, however many inquiries there were, you are aware
 8
     that Mr. Kazal was never charged with any crime by the
 9
    prosecutor in connection with any ICAC inquiry, are you not?
          I am aware that the ICAC submitted to the Department of
10
     Prosecutions in Australia -- I think it's called the
11
12
     Department of Public Prosecutions. That's the legal body
13
     that prosecutes criminal activity.
14
               The ICAC is a commission that is independent that
15
    makes -- it's not a -- it's not a -- it doesn't have
16
     legislative power to make a criminal conviction. They
17
     didn't make recommendations to the Department of Public
18
     Prosecutions of what they should do.
19
          Right. And the DPP, the Department of Public
20
     Prosecutions, declined to prosecute Mr. Kazal; right?
21
          Yes, it did.
22
               THE COURT: Mr. David, do me a favor. Just bring
23
     the mic a little closer to you, if you wouldn't mind.
24
               THE WITNESS: I apologize. Is that better?
25
               THE COURT:
                           Yes.
                                 Thank you.
```

```
BY MR. TAYLOR:
 1
 2
          Now, there was a little bit of testimony on Tuesday
 3
     about a June 2017 report by the inspector of ICAC. Do you
    recall that?
 4
 5
          Yes.
     Α
 6
          You at some point, obviously, after it came out
 7
     publicly, you've seen that report; right?
 8
          I am aware of it. I have seen it, but I haven't read
 9
     it in depth.
10
          I will ask you to turn to Exhibit 42 in the binder in
11
     front of you.
12
               Is this the report that we are referring to?
          I believe it is.
13
14
               MR. TAYLOR: Your Honor, I would like to move
15
     Exhibit 42 into evidence.
16
               THE COURT: Any objection?
17
               MR. WIENER: No objection, Your Honor.
               THE COURT: All right. Forty-two will be
18
19
     admitted.
20
          (Trial Exhibit 42 was admitted into evidence.)
21
     BY MR. TAYLOR:
22
          If you could turn to page 40 of the report. It's Bates
23
     labeled Kazal 00159.
24
     Α
          Yes.
25
          If you could read paragraph 155 out loud, please.
```

```
1
          I'm sorry?
     Α
 2
          Read paragraph 155.
          "Having made the finding of corrupt conduct, the
 3
     Commission came to a view there was insufficient admissible
 4
 5
     evidence available to prosecute Charif Kazal and, therefore,
     declined to refer the question of whether Charif Kazal
 6
 7
     should be charged the DPP for its advice."
 8
          That's consistent with what you just testified a moment
     ago -- right? -- that Mr. Kazal was never prosecuted for any
 9
     crime?
10
11
     Α
          Yes.
12
          And if you could look at the first sentence of
13
     paragraph 156.
14
     Α
          Yes.
15
          If you could read that sentence as well.
16
     Α
          Just the first?
17
     0
          Yes.
18
          "The consequence of that course is that Charif Kazal
19
     will never have the opportunity to clear his name.
20
          Now, when this report was issued, did you read that
21
     statement in this report?
22
          No, I've only read the executive summary.
23
          If you could turn to the following page, page 49.
24
               THE COURT: Are you talking about Kazal 160?
```

I'm sorry, Your Honor.

Yes.

MR. TAYLOR:

- 1 it's labeled Kazal 160 at the bottom.
- 2 Q If you could just read the highlighted portion on the
- 3 screen of paragraph 157.
- 4 A It's not highlighted in my book.
- 5 Q That's why I am directing you to the screen.
- 6 Do you see it on the screen in front of you?
- 7 A I do. Yes. I'll read it. I know what section you
- 8 mean.
- 9 0 Okay.
- 10 A "That finding having been made, however, leaves
- 11 | Charif Kazal with a stain upon his honor, reputation, and
- 12 his right to be considered as a person of good character
- 13 | with no means of law being able to retrieve or recapture
- 14 | those qualities through recourse to the law or to have the
- 15 | findings of the Commission expunged from the records of ICAC
- 16 and its publishings on the Internet. It had impacted upon
- 17 | his presumption of innocence. To the extent that it
- 18 | interferes with his interest in retaining his presumption of
- 19 | innocence, it may be a breach of Articles 11 and/or 12 of
- 20 the Universal Declaration of Human Rights."
- 21 Q Prior to today have you seen this paragraph in the
- 22 report?
- 23 A No.
- 24 | Q Do you have any reason to disagree with what its says
- 25 here?

- 1 A I am just reading straight out of the report. I've got
- 2 | no reason to disagree with what I just read.
- 3 Q If you could turn back one page to page 39, Kazal 158.
- 4 | If you could just read paragraph 150.
- 5 A "It is also worth noting that many of the propositions
- 6 | contained in the list above, although legitimate findings
- 7 | made by the Commission, were in respect of matters very much
- 8 in issue between Kelly on the one hand and the Commission on
- 9 the other and Kazal on the one hand and the Commission on
- 10 the other. They appear to rely heavily upon the
- 11 Commission's acceptance of David's evidence."
- 12 Q Have you ever seen this paragraph prior to today?
- 13 A No, I have not.
- 14 Q Was it your understanding that the Commission relied
- 15 | heavily upon your evidence in reaching its conclusions?
- 16 A No.
- 17 | Q Do you think that's an incorrect statement?
- 18 A No, I'm just not the ICAC.
- 19 | 0 I'm sorry?
- 20 A I'm just not the ICAC.
- 21 Q Now, you recall, Mr. David, that you gave a deposition
- 22 | in this case about six weeks ago?
- 23 A With you, yes.
- 24 O Yes.
- 25 And your attorney was present with you at the

- 1 deposition?
- 2 A Mr. Wiener, yes.
- 3 0 Yes.
- 4 And the deposition was given under oath in front
- 5 of a court reporter; right?
- 6 A Yes.
- 7 Q And you testified truthfully at your deposition, did
- 8 you not?
- 9 A I did.
- 10 Q You are familiar with a Website called
- 11 kazalfamilystory.com?
- 12 A Yes.
- 13 Q And when did you first learn of its existence?
- 14 A In the year of 2013.
- 15 Q How is it that you learned of this Website?
- 16 A I honestly don't recall specifically how I learned
- 17 about it.
- 18 | Q Now, when you first went to the Website, do you recall
- 19 what you observed there?
- 20 A It had a series of pages. It was a banner on the top,
- 21 and it had a series of articles written by -- authored by
- 22 | Mr. Kazal stepping through a whole series of allegations
- 23 | against me.
- 24 | O When you say "by Mr. Kazal," you mean Charif Kazal?
- 25 A I believe so. Well, yes, Mr. Charif Kazal, yes.

- 1 | Q And when you first went to the Website, did you observe
- 2 that there were any photographs on the site, or was it just
- 3 words?
- 4 A No. Graphics.
- 5 Q What do you mean by that?
- 6 A I don't know whether there were screenshots admitted
- 7 | into evidence, but I recall there was a sign -- like a
- 8 | freeway sign from Los Angeles, and there was a headline like
- 9 "I fled to America."
- 10 There was someone chasing after a chicken. There
- 11 was a bloody handprint graphic. There was some other stock
- 12 graphics. There was a big banner in red, said "Warning"
- 13 | with -- included a photo of myself and said "Warning, the
- 14 | corporate thief." It was primarily lots of graphics like
- 15 that.
- 16 Q So the first time you went to the site you saw a
- 17 | photograph of yourself there; right?
- 18 A I did. I believe the photo came from one of the
- 19 | articles in the Sydney Morning Herald from 2010.
- 20 Q At some point did you visit the site and see additional
- 21 | photos of yourself there?
- 22 A I did, yes.
- 23 Q When was that?
- 24 A The site went through a few evolutions. I believe the
- 25 | wire frame was changed of the Website into a WordPress site,

```
and I want to say that occurred in early 2016, and then it
 1
 2
     evolved.
               And in late '16, it wire framed again and then had
 3
 4
     a series of chapters with people's names: Myself;
 5
     David Singh; Linton Besser, one of the journalists.
     was another journalist -- what was his name? Baker, I
 6
 7
     think.
 8
               And so those were all, like, clicks you would --
 9
     like thumbnails, and if you click on those, then the e-mails
     that I had been sent by Charif Kazal and Tony Kazal would
10
     come up like in a mini window, and it would have a
11
     photographic -- a headline, and it would want you to click
12
13
     on that to open up the full page to read it in totality.
14
     That's when I noticed the -- the first time the use of our
15
     copyrighted images.
16
          And you don't know who posted them to the Website;
17
     isn't that true?
18
          No, I don't know.
19
          In fact, you don't know who posted any of the photos to
20
     that Website; isn't that right?
21
          No, I don't know.
22
          And you don't know how whoever posted them to the
23
     Website obtained those photos, do you?
24
          No, I don't know.
     Α
```

Now, I asked you at your deposition about the lawsuit

```
1
     that your attorneys filed, the Second Amended Complaint.
 2
               Do you recall that questioning?
 3
          My lawyers filed?
     Α
 4
     0
          Your --
 5
          Oh, in here?
     Α
 6
          Your lawyers filed a lawsuit in this case. That's why
 7
     we're here, and they filed what's called an
 8
     Amended Complaint and then a Second Amended Complaint.
 9
               Do you recall that testimony? I asked you about
     the Second Amended Complaint --
10
11
     Α
          Yes.
          And you said that you had reviewed the Second Amended
12
     Complaint before it was filed and that it was accurate --
13
14
     right? -- to your lawsuit?
15
     Α
          Yes.
16
          Now, in the deposition I asked you about whether the
17
     allegations in the lawsuit that -- between 2013 and 2018
     Charif Kazal had intentionally and maliciously copied
18
19
     certain of Thunder Studios's copyrighted photographs on
20
     kazalfamilystory.com, and you said that that was an accurate
21
     statement; correct?
22
          An accurate statement, yes.
23
          And that's still your testimony, that that's an
24
     accurate statement; right?
25
          Yes.
```

- 1 Q Now, you said a moment ago that you first visited the
- 2 | site in 2013; right?
- 3 A I did.
- 4 Q And then at some point later on you saw additional
- 5 | photos of yourself appearing on the site you thought maybe
- 6 in 2016?
- 7 A Yes.
- 8 Q You don't know when those photos first appeared,
- 9 though, do you?
- 10 A No.
- 11 Q And during the period between 2013 and 2016, did you
- 12 have occasion to frequent the site, the kazalfamilystory.com
- 13 Website?
- 14 A Yes.
- 15 | 0 What was your purpose in doing that?
- 16 A In early 2014, I -- well, my solicitors in Australia
- 17 | sued Mr. Kazal for defamation and malicious persecution.
- 18 | That case is, actually, still ongoing. As part of the
- 19 requirements for that, we had to, my lawyers, maintain
- 20 observation of that Website.
- 21 | Q Now, the Court in Australia in the lawsuit you just
- 22 mentioned --
- 23 A Yes.
- 24 | Q -- never ordered that the kazalfamilystory.com Website
- 25 | be taken down; right?

```
Australia doesn't provide injunctive relief.
 1
          No.
                                                              The
 2
     legal system in Australia wants to ensure damages are the
 3
     appropriate remedy.
               MR. TAYLOR: Your Honor, if I could just ask the
 4
 5
     Court to have the witness answer more directly yes or no
     questions instead of giving a narrative.
 6
 7
               THE COURT: All right. Ask the next question,
 8
     Counsel.
               MR. TAYLOR: Thank you, Your Honor.
 9
          And you never sought such relief in the United States
10
11
     Court; correct?
          I believe we did.
12
          You sought an order to have the kazalfamilystory.com
13
14
     Website taken down?
15
          So I will have to talk to my attorneys, but I remember
16
     correspondence in 2014 which was concurrent with the
17
     communications the Australian lawyers were having where we
18
     were seeking cease and desist.
19
               In America, you have different laws associated
20
     with libel and defamation, and so any action that I take in
21
     American needs to comply with American law. In America,
22
     particularly in the state of California, there is
23
     anti-SLAPP, which means anyone who is perceived under the
24
     law to be a public figure has a differing right.
25
               MR. TAYLOR: Your Honor, I would move to strike
```

```
1
     the last two sentences, at least, as nonresponsive.
 2
               THE COURT: Sustained. Stricken.
 3
               Ask the question again, please.
     BY MR. TAYLOR:
 4
 5
          I believe the question was you never sought injunctive
     relief in the United States Courts to have the
 6
 7
     kazalfamilystory.com Website taken down; isn't that right?
 8
          No, that's not right.
     Α
 9
          You did seek such relief from the Courts?
          Well, I need to refer to my attorneys. It was a matter
10
     that my attorneys dealt with. At the time we had in-house
11
12
     counsel that was responsible for that.
          But the Courts in America never ordered the site taken
13
14
     down; right?
15
          No, they did not.
     Α
16
          Now, in the course of your work and your personal life,
17
     you visit various Websites on a day-to-day basis; correct?
18
     Α
          Yes.
19
          And when you go to those sites, sometimes you click on
20
     links or you read different pages or you use the site like
21
     mobile banking; is that right?
22
          I don't do mobile banking.
23
          But I'm just giving an example.
24
               You use different Websites for different things;
```

25

right?

- 1 A Well, I -- you know, I go to Websites, yes.
- 2 Q And when you go to those Websites, do you typically
- 3 click on and read the Website's terms and conditions?
- 4 A Rarely.
- 5 Q Sometimes you do?
- 6 A Yes.
- 7 Q Why do you do that?
- 8 A Some Websites require you to -- pop-up window -- when
- 9 | you click on it, pop-up window -- they want you to read
- 10 their terms of service and agree to them.
- 11 | Q Right. And most people just check on the box at the
- 12 | bottom. They don't actually read the terms of service.
- 13 You're saying you actually read the terms of
- 14 service?
- 15 A Sometimes.
- 16 Q Now, the photos that appeared on thunderstudios.com in
- 17 | the period between 2013 and 2016, did they bear any kind of
- 18 | watermark or copyright symbol on them?
- 19 A I have seen photos that do have symbols on them. I
- 20 can't confirm whether all do.
- 21 | Q The photographs that you allege in this lawsuit were
- 22 | misappropriated, did Thunder Studios ever market or license
- 23 | those photographs to any third parties?
- 24 A No.
- 25 | Q Did they ever sell the rights to those photographs?

- 1 A No.
- 2 Q Did Thunder Studios ever directly profit financially
- 3 | from the photographs in any way?
- 4 A Not from the style of them. We use them
- 5 reputationally.
- 6 Q At some point the decision was made to register the
- 7 | copyrights to certain photographs; right?
- 8 A Yes.
- 9 O And we looked at the registration certificates
- 10 yesterday. I believe Exhibits 23 and 24 in the binder.
- 11 Do you recall that?
- 12 A I remember looking at -- not yesterday, the day before,
- 13 yeah, yeah.
- 14 Q The schedule this week has, I think, thrown us off a
- 15 | little bit, all of us.
- The registration certificates were dated December
- 17 | 2016; right?
- 18 A They were.
- 19 Q And at some point, obviously, the decision was made to
- 20 copyright -- to register the copyright in those photographs;
- 21 correct?
- 22 A Yes.
- 23 | O And whose decision was that?
- 24 MR. WIENER: Objection. Calls for attorney-client
- 25 communication.

- 1 THE COURT: All right. To the extent it is,
- 2 | objection sustained.
- 3 BY MR. TAYLOR:
- 4 | Q If you can answer that question without revealing
- 5 attorney-client communications, I would ask you to do that.
- 6 THE COURT: If you can.
- 7 BY MR. TAYLOR:
- 8 Q If possible.
- 9 A I am the CEO; so ultimately the decision would be mine.
- 10 Q And the decision to register the copyrights was made
- 11 | shortly before the December 2016 registrations were issued;
- 12 | right?
- 13 A "Shortly" is a broad word. I would have thought maybe
- 14 | two or three months before.
- 15 Q Who handled the registration of the copyrights for
- 16 | Thunder Studios?
- 17 A A gentleman by the name of Paul Kolesa.
- 18 | Q And he's the director of content security for
- 19 Thunder Studios?
- 20 A Security officer, yes.
- 21 | Q Okay. But that doesn't mean physical security. It
- 22 | means intellectual property?
- 23 A Yes, intellectual property, digital assets. You know,
- 24 | manages all of our digital assets.
- 25 | Q And the decision to register the copyright in the

1 photographs was intended to include all of the photographs 2 that Thunder Studios had on its Website at the time? 3 No. Α 4 What was the purpose of the registration? 5 To secure all of our assets. It's our understanding Α 6 that as soon as an image is captured, there is a copyright 7 that's awarded to the person who captured it. And then, if 8 you want to protect it through the legal means, you have to actually register it. 9 10 Right. So my question was was the decision to register 11 the copyright intended to include every photograph that had 12 ever appeared on thunderstudios.com? 13 14 No, it was to capture every photo in our asset 15 register. 16 Q So whether that photo appeared on your Website or not? 17 Α Correct. Now, it's true, isn't it, that you have no direct 18 19 evidence that Tony Kazal, one of the defendants in this 20 case, was involved in any way, shape, or form in the 21 selection of photos that appeared on kazalfamilystory.com? 22 MR. WIENER: Objection. Argumentive. 23 THE COURT: Overruled. 24 THE WITNESS: I don't personally have any evidence 25 specific to Mr. Kazal on how he attached our photographs to

```
1
     his e-mails.
     BY MR. TAYLOR:
 3
          Well, you have no evidence that he actually attached
 4
     any photographs to the e-mails that appear on the Website;
 5
     isn't that true?
          Except the e-mail on the Website itself and his -- and
 6
 7
     the attachment of the photos embedded within it.
 8
          Right.
     Q
 9
               But the e-mails that appeared on the site were
     actually e-mails that had been sent directly to you
10
11
     previously; correct?
12
          I had received those e-mails, yes, directly.
13
          And when you received those e-mails at your
14
     thunderstudios.com e-mail address, they didn't have any
15
     photos in them; right?
16
          No, not in the e-mail itself, only when it was
17
     published on the Website.
18
          And you don't know who actually published the e-mails
19
     on the Website; right?
20
          Only except what defendants have pled.
     Α
21
          I'm not sure that answers my question.
22
               You don't know who actually posted --
23
          I don't know.
     Α
```

-- the e-mails on the Website; right?

I don't know directly, no.

24

25

```
1
          Now, the e-mails from Tony that you just referenced
 2
     were CC'd to a number of people; correct?
 3
          Yes, they were.
 4
          And those people included employees of Thunder Studios
 5
     and Charif Kazal as well; right?
          Yes, they did. I can't confirm all of them but, yes,
 6
 7
     that's --
 8
          But it's true, is it not, that there was a certain
     pattern, there was a certain continuity and consistency in
 9
     the e-mails in terms of their content and the messaging and
10
     who was copied on the e-mails?
11
12
          Definitely there was a pattern to them, right.
13
          It's true, isn't it, also that you have no direct
14
     evidence that Mr. Tony Kazal was in any way involved with
15
     the development or production of the kazalfamilystory.com
16
     Website; correct?
17
          I don't, no.
18
          You don't know or I don't, comma, n-o?
19
     Α
          I don't, comma, n-o.
20
          I thought you said "I don't know."
     Q
21
          I'm sorry.
     Α
22
          Thank you for clarifying.
23
               Now, it's also true, Mr. David, that you have no
24
     specific evidence at all that defendant Adam Kazal was
```

involved in any way in the selection of photos that appeared

- 1 on the kazalfamilystory.com Website?
- 2 A I don't have any evidence, no.
- 3 Q And it's also true, is it not, that you have no
- 4 information at all to suggest that defendant Adam Kazal was
- 5 | in any way involved with the development or production of
- 6 | the kazalfamilystory.com Website?
- 7 A Except for the video assets that were put on there, no.
- 8 Q But you don't know who put any videos on the Website,
- 9 do you?
- 10 A Only through the process of the Australian legal
- 11 process. So I don't know whether that would be considered
- 12 hearsay or direct. I am a little confused. That's all.
- 13 | Q The photos that appeared on the kazalfamilystory.com
- 14 Website, the photographs of yourself, I mean, were they --
- 15 | some of them were altered or modified in certain ways;
- 16 right?
- 17 A Not by us. Yes, they were.
- 18 Q I mean by someone else.
- 19 A Yes.
- 20 | Q Now, some point in late October 2016 -- I believe the
- 21 | evidence is that it's October 26th I will represent -- you
- 22 | became aware of the presence of some protestors in your
- 23 | neighborhood; right?
- 24 A October 26th, yeah.
- 25 | Q You testified about that on Tuesday.

- 1 A Yes.
- 2 Q Can you briefly describe their exact location relative
- 3 to your house.
- 4 A They were -- how do I explain it? -- they were right at
- 5 an intersection between Homewood Way and Homewood Road.
- 6 Q So let's put it this way: How far away from your house
- 7 were they standing?
- 8 A About 500 meters.
- 9 Q They weren't assembling or congregating right in front
- 10 of your house; right?
- 11 A No, they were actually walking up and down
- 12 | Homewood Road.
- 13 Q And they appeared in the morning during the daylight
- 14 hours; right?
- 15 A Certainly I saw them about 7:00 in the morning.
- 16 Q And the first time you saw them I guess it was
- 17 | 7:00 A.M. on October 26th; right?
- 18 A Yes.
- 19 Q How many protestors were there?
- 20 A I want to say about six.
- 21 Q And none of the defendants in this case were actually
- 22 | physically present among the protestors; right?
- 23 A Not to my knowledge.
- 24 O You didn't see them?
- 25 A I didn't see them.

- 1 Q Now, it's true, Mr. David, isn't it, that you have no
- 2 | specific information that defendant Charif Kazal was in any
- 3 | way involved in the organizing of the protest that occurred
- 4 in your neighborhood. Correct?
- 5 A Except what's tendered as evidence. I don't personally
- 6 have any direct knowledge.
- 7 Q Same question with respect to defendant Tony Kazal.
- 8 A That's a little different because there's a signed
- 9 contract between the perpetrators that organized it and
- 10 Mr. Kazal, Mr. Tony Kazal.
- 11 | Q What was your understanding at the time as to who was
- 12 behind the protest, the October 26th protest?
- 13 A The Kazal family.
- 14 Q The protestors were holding signs and banners; correct?
- 15 A They were.
- 16 Q And did they indicate any names on them of who was --
- 17 | A Yes. On every poster, banner, and it was the care of
- 18 | symbol Adam Kazal.
- 19 O Adam Kazal; right?
- 20 A Yes.
- 21 | Q Only Adam Kazal?
- 22 A Yes.
- 23 | Q Now, when you saw these protestors, you were on foot,
- 24 or you were in your vehicle?
- 25 A I had arrived via vehicle and got on foot.

- 1 Q You parked and got out of your car?
- 2 A Yes.
- 3 Q And you approached the protestors; right? You went up
- 4 | directly towards them?
- 5 A Yes.
- 6 Q And you asked them questions like "What are you doing?"
- 7 A Yes.
- 8 Q "Get out of here. I am going to call the police";
- 9 right?
- 10 A Yes.
- 11 | Q Now, did any of those protestors, those six or so
- 12 protestors on that morning of October 26th, make any kind of
- 13 | verbal threat to you of any kind?
- 14 A No.
- 15 | Q Did they make any physical threat of any kind?
- 16 A No.
- 17 | Q Did they gesture towards you in any way?
- 18 A No.
- 19 Q They didn't actually even say a word to you, did they?
- 20 A They did not.
- 21 | Q Now, the signs that they were holding, they said things
- 22 | like, "Rodric David, the corporate thief," things like that;
- 23 | right?
- 24 A Yes.
- 25 | Q Did the signs contain any profanity or vulgarity of any

```
1
      kind?
      Α
           No.
   3
           Did they -- they didn't contain any threats or calls to
      violence, did they?
   4
   5
           No.
      Α
           Now, that morning of the 26th, you told the protestors
   6
   7
      you would call the police, and, in fact, you or your wife
   8
      did call the police; right?
   9
      Α
           Yes.
  10
           The LAPD responded to the neighborhood; right?
      Q
  11
      Α
           Yes.
  12
      0
           How many police officers came out?
  13
      Α
           I think it was two patrol cars came.
  14
           Now, you mentioned a moment ago that you spoke to the
  15
      protestors. Your wife spoke to the protestors as well;
  16
      didn't she?
  17
           I wasn't there when she was there. She can give --
  18
      sorry.
```

- 19 I just inadvertently didn't turn off my phone. I
- apologize. 20
- 21 I wasn't there at the same time as my wife.
- 22 But you spoke to her about this later, and she told you
- 23 that she had interacted with the protestors?
- 24 When I got home, yes.
- 25 At the time you saw them, you felt comfortable and safe

- 1 enough to go up to them and engage with them; right?
- 2 A I wouldn't say comfortable, no. But it was obvious to
- 3 | me that this was organized, these people were paid to be
- 4 there.
- 5 Q Right.
- 6 So you didn't feel any threat to your safety?
- 7 A Not from them, no.
- 8 Q Now, I asked you that question at deposition, and you
- 9 said that you were not in fear for your safety that morning
- 10 | because the protestors looked like they were Hispanic
- 11 | laborers who had no idea what they were doing let alone
- 12 being able to read the signs that they were holding. Is
- 13 that right?
- 14 A Yes.
- 15 | O And that's still your testimony today; right?
- 16 A Yes.
- 17 | Q So at some point the police arrived. I think you
- 18 | said -- you said two officers or two cars?
- 19 A Two patrol cars came by.
- 20 Q So at least two officers, maybe three?
- 21 A Yes, yes.
- 22 | Q And, obviously, you spoke with them when they got
- 23 | there; right?
- 24 A I spoke to at least one of them, yes.
- 25 | Q And did you speak to them where the protestors were

- 1 assembled or at your house?
- 2 A Near where the protestors were assembled.
- 3 Q Okay. So within the view of the protestors; right?
- 4 A Yes.
- 5 Q And the police told you that the protestors had every
- 6 right to be there, didn't they?
- 7 A Yes, they did.
- 8 Q The police told you there was a lawful right to
- 9 protest?
- 10 A There is.
- 11 Q Nothing they could do about it; right?
- 12 A Except to say they're not allowed to congregate.
- 13 | Q Meaning the police told you the protestors had to --
- 14 A They had to be moving.
- 15 | Q -- keep moving, they couldn't just stand in one place?
- 16 A Correct.
- 17 Q The --
- 18 | A And they couldn't -- they couldn't touch private
- 19 | property and the public -- the public furniture like street
- 20 poles and road signs and stuff like that.
- 21 Q Okay. But the police said --
- 22 A It --
- 23 Q -- that they were allowed to --
- 24 THE COURT: You guys are stepping on each other.
- 25 If you want a decent transcript, you are not accomplishing

- 1 that. So wait for the witness to answer and then ask the
- 2 next question.
- 3 MR. TAYLOR: Sure. My apologies.
- 4 Q You were done with your answer?
- 5 A I said move on. They told the protestors to move on.
- 6 Q Meaning they had to leave the neighborhood?
- 7 A No. They had to be walking.
- 8 Q Right.
- 9 But they could stay in the area that they were
- 10 congregating --
- 11 A Yes -- not congregating but they could stay, moved on.
- 12 Q Were they standing on the sidewalk or in the street?
- 13 A In the street.
- 14 Q But on the edge of the road or in the middle of the
- 15 | street?
- 16 A Towards the middle of the road between the road and the
- 17 | cars that are parked. So they were halfway on the road.
- 18 | Q Okay.
- 19 A The cars are parked, and then they are standing in the
- 20 traffic flow.
- 21 Q But cars were able to pass by; right?
- 22 A They moved around them, yes.
- 23 | Q They didn't block the traffic or anything?
- 24 A No.
- 25 | Q Now, your house is on a cul-de-sac; correct?

- 1 A Yes.
- 2 Q Meaning, it's not a through street?
- 3 A No.
- 4 Q So it's fair to say that it doesn't get much traffic.
- 5 A It doesn't.
- 6 Q Now, when the police arrived and you spoke with them,
- 7 how long was that conversation?
- 8 A I would be guessing. Maybe ten minutes.
- 9 Q Okay. And did you ask the police about your rights,
- 10 | what you were able to do legally?
- 11 A They told me to contact my lawyers.
- 12 Q Anything else?
- 13 A No. They said -- no, if it's a dispute with, you know,
- 14 other parties, it's ongoing, you should follow the legal
- 15 process.
- 16 Q And they said that because you told them that it was
- 17 | based on a business dispute?
- 18 A I don't recall specifically saying that, but I told
- 19 them it was a long-standing dispute, yes.
- 20 Q Now, after your conversation with the police ended, did
- 21 | you go back -- did you go to your house, or did you leave
- 22 | the neighborhood?
- 23 A I went home.
- 24 | Q Did the police leave the scene at the same time?
- 25 A I don't know. I don't know how long the police

- 1 actually stayed in the area.
- 2 Q So you went back to your house, and the police were
- 3 | still there?
- 4 A Yes.
- 5 Q Now, that you observed during your conversation with
- 6 the police and thereafter, did the police order the
- 7 | protestors to disburse and leave the area?
- 8 A They told them to move on.
- 9 Q But they didn't tell them they had to pack up and leave
- 10 | the neighborhood; right?
- 11 A Not to my knowledge.
- 12 Q And you didn't observe the police actually confiscating
- any of the protestors' signs or banners; right?
- 14 A I observed the police forcing them to take them down
- 15 | from neighbors' properties and street furniture.
- 16 Q But they didn't actually take them away from the
- 17 | protestors; right?
- 18 A I didn't observe that, no.
- 19 Q You didn't observe the police make any arrests; right?
- 20 A No, I did not.
- 21 Q The police allowed the protest to continue; correct?
- 22 A Yes, they did.
- 23 | Q And the police told you -- didn't they -- that there
- 24 | was actually no crime that had been committed in --
- 25 A No, they --

```
1
          -- gathering of the protesters.
     Q
 2
               THE COURT: Hold on. Again --
 3
               THE WITNESS: Sorry. My apologies.
 4
               THE COURT: Thank you.
 5
     BY MR. TAYLOR:
 6
          I know my questions may be predictable at moments, but,
 7
     again, the police told you, didn't they, that there was no
 8
     crime that had been committed in the gathering of these
 9
     protestors in your neighborhood; right?
10
          They didn't say that to me. They said there is a right
     of peaceful protest in California.
11
          Well, you never became aware, did you, that anyone was
12
13
     charged with any crime in connection with that protest;
14
     right?
15
          No, I did not.
     Α
16
          You recorded some video of the protestors with your
17
     cell phone; right?
18
     Α
          Yes.
19
          And you filmed them for a few minutes; correct?
20
          Approximately.
     Α
21
          And how close were you to the protestors when you were
22
     doing that?
23
          Some, quite a distance. Some, very close. I wanted to
24
     capture faces on the camera.
```

And when you say "very close," you mean five feet --

```
1
          Within a foot.
     Α
 2
     Q
          Sorry?
          Within a foot.
 3
     Α
          Within a foot.
 4
     0
 5
               Your wife came out and took some photos and video
     of the protestors as well with her phone, didn't she?
 6
 7
          I wasn't there. You can ask her.
     Α
 8
          Well, I may; but she told you that, didn't she?
 9
     Α
          She told me that, yes.
10
          Now, I believe you testified on direct that after this
11
     initial protest at your home in the area of your home in
12
     October, a couple weeks passed, and then there were some
13
     additional protests in November 2016; right?
14
          For at least a week, yes.
15
          And were they in the -- roughly the same area?
16
     Α
          Roughly.
17
          I asked you about that at your deposition. You
18
     testified that the people who appeared in November in your
19
     neighborhood appeared different -- looked different in
20
     appearance from the people who had been gathered in October.
21
          They were different persons, yes.
22
          They were different persons.
23
               And they looked different; right?
24
     Α
          Yes.
```

They were of a different racial makeup, for example?

```
1
          I can't say that for the protestors themselves outside
 2
     my house. Certainly they were different at Thunder Studios,
     and there was an addition outside my house of the film crew.
 3
 4
          Okay. You testified that the group that appeared in
 5
     November looked more "thuggish," to use your word; right?
 6
               Do you recall --
 7
          Yes.
     Α
 8
          -- that? That's true?
     Q
 9
     Α
          Yes.
10
          That was your impression?
     Q
11
     Α
          Yes.
12
          And were there roughly the same number of protestors or
    more or less than in October?
13
          I would have thought, to the best of my recollection,
14
15
     approximately eight in total and the van.
16
     Q
          This is in November 2016?
17
     Α
          Correct.
18
          The protestors who appeared in November, you --
19
     obviously, you saw them when they appeared; right?
20
          In November?
     Α
21
     0
          Right.
22
     Α
          Yes.
23
          And you drove past them in your car; right? Because
24
     they weren't outside your house, they were a block or two
```

away?

```
1
          No, they were on Homewood Road; so about 500 meters
 2
     away from my house.
 3
          But roughly in the same location as the protestors who
 4
     appeared in October; right?
 5
          Roughly, within a couple of hundred meters.
     Α
          Was it the same people every day?
 6
 7
          I don't know.
 8
          I want to show you a still image from the video that
 9
     your attorney played yesterday --
10
     Α
          Tuesday.
11
     Q
          I'm sorry. Tuesday.
12
               I believe it's Exhibit -- part of Exhibit 7 that
     was moved into evidence, Your Honor.
13
14
               THE COURT: All right. Go ahead.
15
         (Exhibit played.)
16
     BY MR. TAYLOR:
17
          This is a screenshot from the video that was played the
18
     other day.
19
               That's the van that you are referring to at the
20
     left?
21
          It is.
22
          That's a group of four of the protestors who appeared
23
     in November?
24
     Α
          Yes.
```

And those are the protestors you described as looking

- 1 thuggish?
- 2 A No, I'm -- there are some of them, yes.
- 3 Q Why did you say they look thuggish?
- 4 A Well, some of the other guys that are not in the photo
- 5 | were bald and were dressed in a way that looked more
- 6 | thuggish to me.
- 7 Q So these protestors here, these four, didn't look
- 8 thuggish to you?
- 9 A They were congregating as a group. They looked
- 10 thuggish to me.
- 11 Q Okay. Now, that October morning, October 26th, you
- 12 became aware of a gathering of protestors outside of the
- 13 gates of Thunder Studios as well; right?
- 14 A I got a phone call saying there were protestors outside
- 15 of Thunder Studios.
- 16 | Q You got a phone call after you saw the protestors in
- 17 | your neighborhood?
- 18 A Yes.
- 19 O Though sometime after 7:00 A.M.?
- 20 A Yes.
- 21 Q And did you go to Thunder Studios that morning?
- 22 A Yes.
- 23 | Q So you got a call when you were on your way down there?
- 24 | A Yes.
- 25 Q Who called you, by the way?

- 1 A I got a couple of phone calls from various Thunder
- 2 employees.
- 3 Q And then when you arrived at Thunder Studios, you
- 4 | observed the protestors; right?
- 5 A Yeah, I saw them.
- 6 Q How many were there?
- 7 A All right. It was different throughout the day. I
- 8 | want to say in total about 12.
- 9 Q These were different people from the ones that had
- 10 | appeared in your neighborhood that morning; right?
- 11 A Yes.
- 12 Q When you first observed them as you approached
- 13 Thunder Studios, it was as you were in the car with
- 14 | Matthew Price driving into Thunder Studios; right?
- 15 A I was the passenger in the car; yes.
- 16 Q Right.
- 17 Mr. Price was driving?
- 18 A Yes.
- 19 Q And Mr. Price was the CTO, the chief technology
- 20 officer, of Thunder Studios at the time?
- 21 A At the time.
- 22 | Q And you drove with him because he lived near you at the
- 23 time?
- 24 | A His daughter goes to the elementary school with my
- 25 | daughter, which -- and so he would drop off his daughter and

- 1 pick me up, and we would carpool.
- 2 Q That's because the school is very close to your house?
- 3 A Very close.
- 4 Q Now, when you observed the protestors, they were
- 5 standing at, sort of, gates of the car park of
- 6 Thunder Studios; right?
- 7 A Yes.
- 8 Q And the gate is normally closed; right?
- 9 A It opens up for access for pedestrians and cars.
- 10 Q Right.
- 11 So it opened up, and Mr. Price drove in?
- 12 A Yes.
- 13 Q Of the parking lot.
- 14 And he parked the car?
- 15 A Yes, in the secure lot.
- 16 Q Right.
- 17 And then the gate closed, and the protestors
- 18 | remained outside on the sidewalk; right?
- 19 A Yep.
- 20 Q You got out of the car, and you turned towards the
- 21 protestors; right?
- 22 | A No, I turned towards my security guards and thanked
- 23 | them, did a great job.
- 24 Q So when you got out of the car, you didn't gesture
- 25 | towards the protestors or wave or give them a thumbs up or

- 1 | anything like that?
- 2 A I definitely gestured to my security guard.
- 3 O So you gave some kind of wave, or you applauded and
- 4 gave a thumbs up to your security guard?
- 5 A James, yes.
- 6 Q Who you see every day?
- 7 A Yes.
- 8 Q And you greet him typically that way every morning?
- 9 A No, no, but James had dealt with these protestors
- 10 trying to get through the fences and into the lobby at the
- 11 studio. He is a 76-year-old man. So I was very proud of
- 12 him being able to prevent them from doing that.
- 13 Q I see.
- So you're saying the protestors tried to -- 12
- 15 | protestors tried to break into the Thunder Studios lot?
- 16 A That's not what I said.
- 17 Q I misunderstood you then.
- 18 A Well, you asked me how many protestors. I said there
- 19 | were about 12 throughout the day. I don't know. I wasn't
- 20 there at the time when James addressed -- you know,
- 21 prevented them from accessing the property.
- 22 | Q So how did you know when you had gotten there with
- 23 | Mr. Price that James had prevented any of the protestors
- 24 | from accessing the property?
- 25 A Because that's what my employees told me when they

```
1
     called me.
 2
          I see.
 3
               So James -- you are saying James must have told
     your employees that he had prevented people from accessing
 4
 5
     the property?
          I don't know. They didn't enunciate to me. They had
 6
 7
     conversations with James.
 8
          And then after gesturing towards James, you went and
     spoke with him; right?
 9
10
          No. I think I walked into the lobby.
11
     Q
          I see.
12
               So you turned away from the parking lot and went
     into the building?
13
          That's what I recall.
14
15
          Now, James, or whoever the security quard is at any
16
     given moment, is in a little booth by the gate to the car
17
     park; right?
18
          There is a guard house, yes.
19
          And Thunder Studios has always had a guard stationed at
     Q
20
     the guard house; right?
21
     Α
          Yes.
          Even before the protest began?
22
23
     Α
          Yes.
24
          Now, again, as far as you were aware, none of the
```

defendants in this case, none of the Kazals, were physically

- 1 present among the protestors at Thunder Studios; right?
- 2 A Not that I observed.
- 3 | 0 Not that you ever heard from anyone; right?
- 4 A I haven't heard from anyone, no.
- 5 Q The protestors that you observed at the studio on the
- 6 26th of October were different racial backgrounds from what
- 7 | you could tell?
- 8 A 26th of October?
- 9 Q That first morning, yeah.
- 10 A Yes.
- 11 Q Included men and women; right?
- 12 A Yes.
- 13 | Q Now, you were never in fear for your personal safety or
- 14 | security from the protestors at Thunder Studios; isn't that
- 15 right?
- 16 A I was not.
- 17 | Q And that's because it's a closed building and there is
- 18 | security; right?
- 19 A And we have -- the police car was stationed right there
- 20 about a hundred feet away from the protestors -- or the
- 21 | sheriff's car. Sorry.
- 22 | Q You are saying, after someone called the police, the
- 23 | sheriff's department responded?
- 24 A No. I don't know how they got there, but when I got
- 25 there, there was a sheriff's car there.

- 1 Q Okay. But there's not normally a sheriff's car down
- 2 | the block from Thunder Studios, is there?
- 3 A It's pretty frequent for us.
- 4 Q Okay. So there was a sheriff's car parked outside --
- 5 about a hundred yards from the studio when you arrived?
- 6 A Approximately.
- 7 Q And there was a sheriff's deputy inside?
- 8 A I don't know. I didn't pay any attention if anyone is
- 9 in the car.
- 10 Q When you got out of the car that morning, did you
- 11 | interact with the protestors in anyway?
- 12 A I don't think so.
- 13 Q Did you speak with any of them?
- 14 A I didn't personally, no.
- 15 Q How chose did you get to them?
- 16 A Well, I must have been close because I got through them
- 17 | to get into car park so a couple of feet.
- 18 Q Okay. But that was while you were in the car.
- 19 A Yes.
- 20 Q Okay. I mean once you got out of the car, how close
- 21 | did you approach them?
- 22 A I don't recall. Maybe 10, 15 feet.
- 23 | Q Did you -- you never heard any of those protestors make
- 24 | any threats of violence towards you; correct?
- 25 A Well, they were chanting, but I don't -- I wouldn't

- 1 specifically say it was threats of violence directly towards
- 2 me, no.
- 3 Q They were chanting "Rodric the robber"?
- 4 A That was one of them.
- 5 Q And you never heard any of those protestors who were
- 6 gathered outside the gates of Thunder Studios make any calls
- 7 | to violence whatsoever, did you?
- 8 A I didn't, no.
- 9 Q The protestors at the studio were holding signs;
- 10 | correct?
- 11 A They were.
- 12 Q And from what you could see, they were similar to the
- 13 signs that the protestors were holding in your neighborhood?
- 14 A They were identical.
- 15 Q Identical.
- And from what you could see, those signs contained
- 17 | no threats of violence, did they?
- 18 A No.
- 19 | Q They didn't include any direct threats towards you, did
- 20 they?
- 21 A No.
- 22 MR. TAYLOR: I would like to play an approximately
- 23 | one-minute clip of a video that was produced by Mr. Woodward
- 24 | in response to a subpoena by plaintiff's counsel. I don't
- 25 | believe it's been admitted into evidence, but this witness

```
1
     has seen it.
 2
               May I play the clip, Your Honor?
               THE COURT: What exhibit is this?
 3
 4
               MR. TAYLOR: I believe it's a part of Exhibit 44.
 5
               THE COURT: Any objection?
               MR. WIENER: Your Honor, I'd like to see the
 6
 7
     specific clip, and I might request that a longer portion of
 8
     it be shown in order that the proper context for it is
 9
     established.
10
               THE COURT: Is Mr. Woodward going to testify?
11
               MR. TAYLOR: He is scheduled to testify on Monday,
12
     Your Honor.
13
               THE COURT: All right. I will allow the play of
14
     the portion, and if you want to expand the version of the
15
     play, you can do so when the witness testifies.
16
               MR. WIENER: All right. Thank you.
17
               THE COURT: You may proceed.
               MR. TAYLOR: Thank you, Your Honor.
18
19
          (Exhibit played.)
20
     BY MR. TAYLOR:
21
          Can you see it there, Mr. David?
22
               Okay. Now, that's Mr. Price's car arriving at
23
     Thunder Studios on the morning of October 26th; right?
          Yes, it is.
24
     Α
25
          That's you who just got out of the passenger seat?
```

```
1
          It is.
     Α
 2
          Who is that with the blond hair with his back to the
 3
     camera?
 4
          I'm not actually sure.
 5
          But he wasn't in the car with you though.
     Q
 6
          No. It could be Paul. I can't see.
 7
          That might be Paul?
     Q
 8
          It could be.
     Α
 9
          We'll see. I think he might turn here in a minute --
10
               THE COURT: I'm sorry. When you are referring to
11
     "Paul," who are you referring --
12
               THE WITNESS: I'm sorry. Paul Kolesa.
               THE COURT: Go ahead.
13
               MR. TAYLOR: Thank you, Your Honor.
14
15
          That's Mr. Price getting out of the driver's seat?
16
     Α
          Yes.
17
          Now, you are lifting your arms up and giving a thumbs
18
    up and applauding.
19
               Do you see that?
20
     Α
          Yes.
21
          You're saying that's towards James, your security
22
     quard?
23
          Yes.
     Α
          That was your greeting to him for having kept some of
24
```

the protestors out of the Thunder Studios property; right?

- 1 A Yes, a brave man.
- 2 Q The pedestrian access to the property is through the
- 3 | security booth?
- 4 A Usually.
- 5 Q Is there another way that pedestrians would get into
- 6 property?
- 7 A Except for high-level talent celebrities. We secure
- 8 | them through a back entry.
- 9 Q Okay. But I am talking about through the entrance that
- 10 | we've been talking about by the security.
- 11 A There is vehicle and pedestrian entry.
- 12 Q Right.
- So a pedestrian on foot would have to go through
- 14 | the security booth?
- 15 A Not through it, but there is a gate at the security
- 16 booth.
- 17 Q Right.
- 18 So it's not open to the public. You have to check
- 19 | in with security; right?
- 20 A Well, the gate is open. So someone could run through
- 21 | it if they wanted to, but, yes, they have to -- the way we
- 22 | do it is they would talk to the security guard for access.
- 23 | Q So you are gesturing towards James, the security guard,
- 24 | and he is in the booth which is off to the right out of the
- 25 picture; right?

- 1 A No. He sits in his chair by the door of the booth.
- 2 Q He is actually outside the booth?
- 3 A Yes.
- 4 Q Inside the property or outside the property?
- 5 A In the property.
- 6 Q Within the gates?
- 7 A Yes.
- 8 Q Now, you seem to be gesturing and talking to someone
- 9 there. Do you see that?
- 10 A I do.
- 11 | Q That's towards James again; right?
- 12 A Yes.
- 13 Q Now, here you turn and go to the right. You change
- 14 direction.
- 15 A Yes.
- 16 Q Why did you turn and go toward the different direction
- 17 | there?
- 18 A I have no idea.
- 19 Q Let's keep watching.
- 20 (Exhibit played.)
- 21 BY MR. TAYLOR:
- 22 | Q Is that the security booth you were talking about?
- 23 A It's the security booth, yes.
- 24 | Q And you seem to be stopping and talking to someone
- 25 | there. It's out of the picture a little bit, but do you see

- 1 that?
- 2 A I do.
- 3 Q And who are you talking to there?
- 4 A I don't know.
- 5 Q Are you standing roughly where the pedestrian gate
- 6 | would be to access the property?
- 7 A It's near there. I don't know the angle.
- 8 Q Now, there were protestors outside the gate out of the
- 9 | view of this camera shot; right?
- 10 A I don't know.
- 11 | Q Do you have any reason to doubt that this video was
- 12 taken on October 26th, 2016?
- 13 A I didn't take the video; so I'm just taking you at your
- 14 word.
- 15 Q But you have no reason to doubt that the time stamp and
- 16 | the date stamp there is wrong?
- 17 A No, not directly.
- 18 | Q Now, you are walking back toward the lobby of the
- 19 studio?
- 20 A Yes.
- 21 0 Is that Paul?
- 22 A I think so. A bit blurry, but I think it might be.
- 23 Q And then that's the door to the lobby?
- 24 | A Yes.
- 25 Q After speaking with whoever you spoke with and

- 1 gesturing to James, you turned around and walked back into
- 2 | the building; right?
- 3 A Yes.
- 4 Q And you went on that morning with your day's work?
- 5 A No. I don't recall the specifics of what I did that,
- 6 you know, day, but I'm pretty certain I would have been
- 7 | talking to my lawyers straight away.
- 8 Q Now, when you went inside the building, did you at any
- 9 point that day tell your employees at Thunder Studios to do
- 10 anything different in their day-to-day routines in response
- 11 to the protestors outside?
- 12 A Yes.
- 13 | Q Really. What did you tell them?
- 14 A Well, I brought them all together and sought to explain
- 15 | what was going on and what we were going to be doing about
- 16 it. I wanted them to ensure -- I wanted to make sure that
- 17 | as a company, if there was any distress or anything being
- 18 | caused upon them, that we would do what was ever necessary
- 19 to assist with that.
- 20 We did get a complaint from an employee who was
- 21 harassed or assaulted trying to get in the property, by one
- 22 of the protestors.
- 23 MR. TAYLOR: Your Honor, I will move to strike as
- 24 | nonresponsive.
- 25 My question was did you instruct your employees to

```
1
     do anything different in their day-to-day routines in
 2
     response to the presence of the protestors outside?
 3
               THE COURT: And your next question was "Really.
     What did you tell them?"
 4
 5
               MR. TAYLOR: Right.
               THE COURT: So what are you seeking to strike?
 6
 7
               MR. TAYLOR: Well, he said, yes, I told them to
 8
     change their day-to-day routines -- at least that's what I
 9
     understood. And then the answer was, well, if anything
     happened, you know, we want to make sure there's resources
10
     and know who to talk to.
11
12
               My question was how did the company tell the
     employees to change their routines?
13
               THE COURT: So the answer is stricken.
14
15
               Ask your next question.
16
               MR. TAYLOR: Right.
17
          The question specifically is what did you tell them
18
     with respect to changing their day-to-day routines, if
19
     anything?
20
          Well, I advised them that the company was concerned for
21
     their well-being, and if they didn't want to be here when
22
     this was occurring, they didn't have to.
23
          Okay. Now, you mentioned the presence of a sheriff's
24
     deputy.
25
               Did you actually become aware of someone from
```

- 1 | Thunder Studios calling for the police?
- 2 A No.
- 3 Q Did you personally interact with the police or the
- 4 | sheriff's department regarding the protests at
- 5 Thunder Studios?
- 6 A I don't recall personally talking to a sheriff, but I
- 7 know some of my staff did.
- 8 Q Okay. And did the -- how many employees did you have
- 9 at the time, by the way?
- 10 A Direct employees, approximately a dozen.
- 11 Q So do you know who spoke to the sheriff's department?
- 12 A Possibly Elizabeth Dunigan.
- 13 | 0 Who is that?
- 14 A Administration manager.
- 15 | Q Did Elizabeth report to you what her conversation with
- 16 | the sheriff's department was?
- 17 A She would have, yeah.
- 18 Q Do you recall what she told you?
- 19 A Not the specifics, no.
- 20 | Q Now, the sheriff's department, as far as you know, did
- 21 | not make any arrests in connection with the protest;
- 22 correct?
- 23 A Not to my knowledge.
- 24 | O To your knowledge, the sheriff's department did not
- 25 | instruct the protestors to disperse or shut down their

- protest; right?
- 2 A No, they didn't.
- 3 Q As far as you are aware, the sheriff's department
- 4 allowed the protesters to continue what they were doing;
- 5 right?

- 6 A As far as I am aware.
- 7 Q That morning of October 26th when you arrived, it was
- 8 about maybe 9:20, 9:30 in the morning; right?
- 9 A Approximately.
- 10 Q And how long had the protestors been there by that
- 11 point, if you know?
- 12 A I recall being told that the first one showed up
- 13 approximately 7:30.
- 14 Q And how long were they there at the studio that day?
- 15 A Maybe six hours, maybe through to maybe 1:00,
- 16 | 2:00 o'clock.
- 17 | Q Now, from where you work within the building, could you
- 18 | see the protestors outside?
- 19 A No.
- 20 Q Could you hear them?
- 21 A No.
- 22 | Q Periodically throughout the day did you go out or go to
- 23 the front of the building to see if they were still there?
- 24 A I don't recall, no.
- 25 | Q At some point someone came and told you they had left?

- 1 A Yes.
- 2 Q You were -- fair to say you were frustrated to have
- 3 | protestors appear at your place of business; right?
- 4 A Shocked and frustrated amongst other emotions.
- 5 Q Now, the LAPD officers who came to area of your house
- 6 that morning, they told you, among other things, to just
- 7 | steer clear of the protestors; right? Just stay away from
- 8 them?
- 9 A Yes.
- 10 Q And you and your wife did that; right?
- 11 A Yes.
- 12 Q From then on you, sort of, stayed away from the
- 13 protestors?
- 14 A To what we could, yes.
- 15 | Q From what I understand, you had to pass them in your
- 16 | car to get out of the neighborhood, but you didn't have to
- 17 | get out and interact with them at all?
- 18 A No.
- 19 | Q And as you said, they didn't congregate at your house?
- 20 A No, they weren't allowed to.
- 21 Q But they never tried to, did they?
- 22 A Not at my house, no.
- 23 | Q It's true, is it not, Mr. David, that in the two-plus
- 24 | years since the protests that are the issue -- at issue in
- 25 | this case, there have been no further protests either in

- 1 your neighborhood or outside Thunder Studios?
- 2 A Since the protests in late November, no further.
- 3 O Right.
- 4 So for more than two years now.
- 5 A Approximately.
- 6 Q You mentioned that the signs that the protestors were
- 7 | holding in your neighborhood said, "Care of Adam Kazal."
- 8 A Yes.
- 9 Q Was that, sort of, at the bottom of the sign?
- 10 A Yes.
- 11 Q And did the signs that the protestors were holding
- 12 | outside of Thunder Studios bear the same "Care of Adam
- 13 Kazal"?
- 14 A On the 26th of October, yes.
- 15 Q On the 26th of October, yes.
- 16 A Yes.
- 17 | Q They didn't say "care of the Kazal family" or "care of
- 18 | Charif Kazal"; right?
- 19 A No.
- 20 Q Just Adam?
- 21 A Just Adam.
- 22 | Q And it's true, is it not, Mr. David, that you have no
- 23 direct evidence at all that anyone other than Adam Kazal
- 24 | arranged for the protestors to appear at Thunder Studios on
- 25 October 26th?

- 1 A Well, we have it in evidence in the exhibits now.
- Q Okay. I am asking you what -- let me ask this, then.
- What information do you have that someone other
- 4 | than Adam was responsible for the October protests at
- 5 | Thunder Studios?
- 6 A So we have the contract between the contractor who did
- 7 | it and Tony Kazal.
- 8 Q You have no direct information to suggest that
- 9 Charif Kazal was involved with the organizing or payment for
- 10 | the protestors outside of Thunder Studios; correct?
- 11 A I don't, no.
- 12 | Q Now, it's true you engaged a private investigator to
- 13 | find out who these protestors were; right?
- 14 A Yes.
- 15 Q And the private investigator did some investigation to
- 16 | try to learn their identities; correct?
- 17 A Correct.
- 18 | Q Now, at some point did you go into court and seek a
- 19 restraining order to keep any of these protestors away from
- 20 | you and your family?
- 21 A No.
- 22 | Q Did you go into court and seek a restraining order to
- 23 | keep any of these protestors away from Thunder Studios?
- 24 A No.
- 25 | Q Do you know whether any of your employees sought a

- 1 restraining order to keep any of these protestors away from
- 2 them?
- 3 A I don't know.
- 4 Q You never heard any such thing; right?
- 5 A I haven't heard, no.
- 6 Q Now, during the time frame of roughly, I guess,
- 7 late 2015 to early 2017, you received regular e-mails
- 8 | primarily from Charif and Tony Kazal; right?
- 9 A Primarily, yes.
- 10 Q You received them on a fairly regular basis from one of
- 11 | them maybe every or every other day?
- 12 A To the best of my recollection, I believe we received
- 13 e-mails every single day.
- 14 Q And these e-mails were all of a similar content; right?
- 15 A Yes.
- 16 Q And these e-mails related to generally their assertion
- 17 | that you had done them wrong in connection with your
- 18 business dealings in the past; right?
- 19 A No. I think much more varied than that.
- 20 Q Much more what?
- 21 A Varied.
- 22 | Q Varied?
- 23 A Varied.
- 24 | Q Okay. But that was an important theme to the e-mails;
- 25 right?

- 1 A Yes.
- 2 Q And the e-mails also would frequently mention, would
- 3 they not, that the Kazals felt that you had caused them
- 4 | significant monetary harm; right?
- 5 A They made outrageous claims, yes.
- 6 Q Okay. But that was part of the e-mail?
- 7 A Yes.
- 8 Q That they felt that you had harmed them financially;
- 9 right?
- 10 A In part, yes.
- 11 | Q Did you also receive e-mails from Adam?
- 12 A Yes.
- 13 Q I believe you testified at deposition that the
- 14 | communication from Adam was more indirect. It was through
- 15 | Twitter; right?
- 16 A More on Twitter, yes.
- 17 | Q All right. So if I understand correctly, you would
- 18 | receive a Twitter notification that Adam had referenced your
- 19 | Twitter handle in a tweet?
- 20 A Yes, frequently.
- 21 | Q Forgive me. I'm not on Twitter yet, but you would you
- 22 | receive an e-mail notifying you that he had referenced you
- 23 | in a tweet, or you would receive a tweet -- I don't know how
- 24 | it works.
- 25 A They are two different things, but I receive a

```
1
     notification --
 2
          Right.
          -- but I also received e-mails, yes, but not specific
 3
     to the tweet. They're two different things.
 4
 5
          Okay. So you'd receive a notification within Twitter
 6
     itself?
 7
          No, you just receive a notification on the front screen
 8
     of your phone that someone has tweeted about you.
 9
          I see.
     0
10
               And then you'd have to click on the notification
     or go into Twitter to see what the tweet was about?
11
12
     Α
          And it would link you to it, yes.
13
          So you could ignore the notification; right?
14
          I could. Well, the notification automatically pops up.
15
     I could ignore actually clicking through and going to
16
     further detail.
17
     Q
          Right.
18
               So you didn't have to read any of Adam's tweets?
19
          I didn't have to read the substance, no.
20
          And at some point you learned that you could block
21
     receiving the notifications altogether; right?
22
          I know you can do with certain social media accounts,
23
    yes.
24
          Didn't you do that with respect to Adam Kazal on
```

Twitter?

- 1 A No.
- 2 Q You didn't try to block notifications?
- 3 A No.
- 4 Q Now, the e-mails that we were just talking about just a
- 5 | moment ago were directed to you at your thunderstudios.com
- 6 e-mail address; right?
- 7 A Yes.
- 8 Q And, again, those e-mails were frequently or perhaps
- 9 | every time copied to certain people at Thunder Studios;
- 10 right?
- 11 A Yes.
- 12 Q Now, is it fair to say that you did not actually read
- 13 | every single e-mail that you received from the Kazals during
- 14 that period; right?
- 15 A Not the full extent of them, no.
- 16 Q In fact, you only read about 20 to 30 percent of those
- 17 | e-mails; right?
- 18 | A I think I told you between 30 and 50 percent but in and
- 19 around there.
- 20 Q So you ignored at least half of them, maybe more?
- 21 A Well, no, I didn't ignore them.
- 22 | Q Well, if you didn't read them and you didn't ignore
- 23 them, what did you do with them?
- 24 A Ensured that my attorneys both in Australia and
- 25 United States had got them all.

- 1 Q So you would forward them to your attorneys.
- 2 A Yes.
- 3 Q Even the ones you didn't read, you would just forward
- 4 them --
- 5 A Yes.
- 6 Q Now, during this time frame that we're talking about
- 7 | with respect to these e-mails, I believe it's late 2015 to
- 8 | early 2017; correct?
- 9 A Approximately.
- 10 Q During that time frame, Thunder Studios had an in-house
- 11 | IT person or IT department -- right? -- information
- 12 technology?
- 13 A What was the range?
- 14 Q 2015, 2016, 2017?
- 15 A I think Matt started mid to late 2015.
- 16 Q That was Matthew Price?
- 17 A Yes.
- 18 | Q He was your chief technology officer?
- 19 A For a time, yes.
- 20 Q And Mr. Price's responsibilities at that time would
- 21 | have included managing Thunder Studios's e-mail server and
- 22 e-mail accounts?
- 23 A Everything technology, IT, yes.
- 24 | Q It all came within his --
- 25 A Purview, yes.

- Q -- umbrella?
- 2 A Uh-huh.

- 3 Q So when these e-mails started, you spoke to Mr. Price
- 4 about the fact that you were receiving these near daily
- 5 | e-mails; right?
- 6 A Yes. He was receiving them as well.
- 7 O Right.
- 8 He was aware of them at the same time you became
- 9 aware of them?
- 10 A Well, he was getting a copy of them, yes.
- 11 Q Right.
- So you and he, obviously, discussed that fact?
- 13 A We certainly discussed what we needed to do to try and
- 14 prevent it being disseminated to the employees.
- 15 0 I see.
- 16 So there was conversation with Mr. Price about
- 17 | trying to stop the employees from receiving these e-mails;
- 18 | right?
- 19 A Yeah, what sort of firewalls we could put into the
- 20 e-mails so as to stop them from going to the staff.
- 21 Q Now, in the course of your conversation with Mr. Price
- 22 on this topic, he told you that he thought there was
- 23 | something he could do about it; right?
- 24 A Not in those words, but he told me about the firewalls
- 25 he could put up.

- 1 Q Well, he told you he thought he could try to implement
- 2 something to stop the e-mails from reaching the employees,
- 3 | didn't he?
- 4 A He told me he could put up a firewall.
- 5 Q And your understanding at the time was the idea would
- 6 be to prevent the employees who were CC'd on those e-mails
- 7 | from actually receiving them, to block them from their
- 8 inboxes; correct?
- 9 A That's my understanding how it works, yes.
- 10 Q That was your understanding of what Mr. Price was going
- 11 | to try to do; right?
- 12 A Yes.
- 13 Q The idea being that, even if Charif Kazal would send an
- 14 e-mail to you and copy the whole Thunder Studios team, those
- 15 | people would not actually receive the e-mails. That was the
- 16 | goal; right?
- 17 A That was the goal.
- 18 | Q Now, you instructed Mr. Price to try to implement that
- 19 | firewall; right?
- 20 A Yes.
- 21 Q And he did install some sort of mechanism to try to
- 22 | divert those incoming e-mails to your employees through the
- 23 | firewall so they wouldn't get them; right?
- 24 | A Yes.
- 25 | Q And is that true for the e-mails that Mr. Kazal was

- 1 | sending to you as well?
- 2 A No.
- 3 Q So you did not instruct Mr. Price to block the Kazals
- 4 | e-mail to your e-mail address?
- 5 A No.
- 6 Q So is it fair to say, then, that you wanted to continue
- 7 to receive those e-mails, just preventing your employees
- 8 from receiving them?
- 9 A Under instruction from my lawyers, yes.
- 10 Q Going back to the Twitter notifications you received
- 11 | with respect to tweets by Adam Kazal, do you know when you
- 12 | started receiving those notifications approximately?
- 13 A No, I don't recall.
- 14 Q I asked you at your deposition whether you at some
- 15 | point decided to block Adam Kazal's tweets. Do you recall
- 16 that?
- 17 A No.
- 18 Q You don't recall the --
- 19 A Not the specific question, not off the top of my head.
- 20 Q Do you recall that you blocked Adam Kazal on Twitter at
- 21 a certain point?
- 22 | A I recall capturing the screenshots and sending them to
- 23 my lawyers. This is all around the time of
- 24 October 26th when we sought the injunctions and the
- 25 restraining in federal court. I may have blocked him after

- 1 doing those.
- 2 Q So if you blocked him at that point, was it because you
- 3 didn't know beforehand that you could have blocked him?
- 4 A No.
- 5 0 So for some other reason?
- 6 A So my lawyers told me to record everything.
- 7 Q So if you would have blocked his tweets, then you
- 8 | wouldn't have been able to see what he was tweeting about
- 9 you.
- 10 A In future, I wouldn't have known.
- 11 Q So if you would have blocked him -- and, again, forgive
- 12 me. I am not on Twitter; so I don't fully know how it
- 13 | works -- but if you would have blocked him, then, when you'd
- 14 go to your Twitter page or feed, you would not see his
- 15 | tweets that reference you at all.
- 16 A Correct, is my understanding.
- 17 | Q You wanted to continue to be able to access them if you
- 18 | wanted to at any time.
- 19 A Well, up to that point, yes.
- 20 Q Right.
- Now, prior to the appearance of the protestors in
- 22 | your neighborhood and outside Thunder Studios in late
- 23 October of 2016, you had been receiving e-mails fairly
- 24 regularly from the Kazals from -- primarily from, I think
- 25 you said, Charif and Tony for about a year. Is that fair to

```
1
     say?
 2
     Α
          Yes.
 3
          So at that point, you maybe received a couple hundred
     e-mails?
 4
 5
          Yes.
     Α
 6
          Now, it's true, is it not, that you never called the
 7
     police with respect to the e-mails that you were receiving;
 8
     right?
 9
          That's correct. I didn't call the police.
10
          You didn't notify the FBI or some other law enforcement
11
     agency that you were receiving e-mails from people in
     Australia?
12
13
          No, we notified the FBI.
14
          So you did notify the FBI that you were receiving
15
     e-mails?
16
     Α
          Yes.
17
          Prior to the appearance of the protestors?
18
     Α
          Yes.
19
          Okay. What did the FBI tell you?
20
          They don't tell you anything. You actually have to
21
     apply through their -- I'm not going to give you the right
22
     term, but it's, like, the Internet crimes unit. So it's an
23
     online process you have to go through with them.
```

So you filled out some sort of online report?

24

25

0

Yes.

- 1 Q And were you contacted by an agent from the FBI?
- 2 A Yes.
- 3 Q And was that in person or on the phone?
- 4 A Telephone.
- 5 Q When was this approximately?
- 6 A Mid-2016.
- 7 Q So maybe a few months before the protestors appeared?
- 8 A Yes.
- 9 Q And as far as you know, did the FBI take any action in
- 10 response to your report?
- 11 A I'm not aware.
- 12 Q So after your phone conversation with the agent in
- 13 mid-2016, you never heard anything further about it?
- 14 A I heard further about it, yes.
- 15 Q What do you mean by that?
- 16 A That they were monitoring it.
- 17 Q Is that the extent of it?
- 18 A Approximately.
- 19 | O When was that?
- 20 A About six months ago was the last communication I got.
- 21 | O From the FBI?
- 22 A Yes.
- 23 | Q But didn't the e-mails stop about a year ago, at least?
- 24 A Approximately.
- 25 | Q So if there is no more e-mails, there is nothing more

- 1 | for them to monitor; is that right?
- 2 A I don't know.
- 3 Q There was no Court order that you are aware of in the
- 4 United States that prevented Charif or Tony Kazal from
- 5 | sending e-mails to you; right?
- 6 A No, not in the United States.
- 7 Q So you are saying there was a Court order in Australia
- 8 | that prevented them from e-mailing you?
- 9 A No. I just know there were Court orders in Australia
- 10 on certain behaviors that they had to cease and desist.
- 11 Q Including Tony Kazal?
- 12 A No.
- 13 Q So you're saying a Court order in Australia prevented
- 14 | Charif Kazal from sending you an e-mail?
- 15 A I cannot talk about Charif Kazal in this order. It's
- 16 an order to a separate case.
- 17 | Q Right. So it has nothing to do with you specifically?
- 18 A The language is conjoined.
- 19 | O I'm not sure what that means, but it's not your case?
- 20 A It's not my case, but the language within it was
- 21 referenced to the same common language that I have a -- the
- 22 | Court order against Adam Kazal. That was replicated in the
- 23 | other case against Charif Kazal is my understanding.
- 24 | Q But, again, you are not a party to that case.
- 25 A I am not, no.

- 1 Q Now, the report that you made to the FBI with respect
- 2 to the e-mails, did you report to them that there was a
- 3 | certain crime that you believed had taken place?
- 4 A I can't assume the FBI process. So I was notifying the
- 5 FBI what was occurring.
- 6 Q Right. And what did you tell them?
- 7 A I didn't tell them anything. I filled out their forms.
- 8 Q Okay. Well, you reported something to them.
- 9 A Yes.
- 10 Q And you reported that you were receiving e-mails on a
- 11 | near daily basis that you didn't want to receive.
- 12 A Yes.
- 13 Q Was that, basically, the extent of it?
- 14 A In terms of the Internet crimes unit, that's how that
- 15 | works, is my understanding, yes.
- 16 Q Okay. Now, when you filled out that report, did you
- 17 | provide exemplars of these e-mails that you were talking
- 18 | about in your communications with the FBI?
- 19 A I believe we provided some copies and then links to the
- 20 Website that was publishing them, I believe.
- 21 | Q And in your conversation with the agent -- was it a man
- 22 or woman, by the way?
- 23 A A male.
- 24 | Q Did you tell him -- I'm sorry.
- Did he tell you anything about whether there was

- 1 something wrongful about what -- the conduct that you were
- 2 | complaining of?
- 3 A No.
- 4 Q So he just -- fair to say he just took the information
- 5 from you and said, "We'll monitor it"?
- 6 A Yes.
- 7 | O And that was the extent of it?
- 8 A Yes.
- 9 Q Okay. Now, it's correct to say, isn't it, that, prior
- 10 | to the appearance of the protestors in October of 2016 --
- 11 again, you said you had been receiving e-mails regularly for
- 12 about a year already?
- 13 A Approximately.
- 14 Q So prior to the appearance of the protestors in
- 15 October 2016, it's true, isn't it, that you never made any
- 16 | complaint of any kind with the police or other law
- 17 | enforcement that there was any stalking going on by the
- 18 | Kazals, of you and your family?
- 19 A Aside from the e-mails, that's correct. We felt safe
- 20 here.
- 21 | Q And it's true also that, prior to the appearance of the
- 22 | protestors during that year or so that you were receiving
- 23 regular e-mails from the Kazals, you never filed any kind of
- 24 | claim with the Courts or other body that you felt you were
- 25 being stalked by those e-mails; correct?

```
1
          Only as far as it went to our Australian applications.
     Α
 2
          But you never filed any claim here that you were --
     Q
     Α
 3
          No.
          -- being stalked in receiving those e-mails; right?
 4
     Q
 5
          No. Outside of the FBI complaint, no.
     Α
 6
          Outside of?
     Q
 7
          FBI complaint.
     Α
 8
          Oh, FBI, right. I thought you said "FDA."
     Q
 9
     Α
          Sorry.
          No, it's my fault.
10
     Q
11
               May I just take a moment for a sip of water.
               THE COURT: Let's take a 15-minute recess.
12
13
               Ladies and gentlemen, do not form or express any
14
     opinion about the case until the matter is finally submitted
15
     to you. Don't talk about the case with anyone. Don't allow
16
     anyone to talk to you about the case. And don't conduct any
17
     research of any kind on any subject matter connected with
18
     this case. We'll have you come back at 11:15, all right?
19
     Thank you.
20
               THE CLERK: All rise for the jury.
21
          (The following was heard in open court outside the
22
          presence of the jury:)
23
               THE COURT: Sir, you may step down.
24
               Mr. Taylor, I am just curious. How much longer do
25
     you think you have with the witness?
```

```
1
                            I would say at the rate we're going
               MR. TAYLOR:
 2
     hopefully about 45 minutes.
 3
               THE COURT: All right.
 4
               MR. TAYLOR: At the most.
 5
               THE COURT: We'll take a 15-minute recess. We'll
     go to about 12:30 today before the lunch break.
 6
 7
               THE CLERK: All rise. This Court is in recess.
          (Recess taken 11:02 AM to 11:21 AM)
 8
 9
               THE COURT: Mr. Taylor, you may continue.
               MR. TAYLOR: Thank you, Your Honor.
10
11
          Now, Mr. David, I believe you testified on Tuesday that
12
    you felt that the protests somehow constituted terrorist
     tactics.
13
14
               Is that the term that you used?
15
     Α
          Yes.
16
          So what -- I want to understand what you mean by that.
17
               You are saying that the appearance of protesters
18
     in your neighborhood and outside your studio constituted
19
     terror tactics, terrorist tactics?
20
          So you've got to go to my state of mind. I've got on
21
     the same day an escalating campaign against me, Mr. Singh,
22
    my family in Australia being coordinated with the campaign
23
    here in the United States.
24
               I had no idea who these people are, what they're
25
            I'm just seeing posters, chanting, my business, my
```

```
1
     home, my families' homes, the suburbs of where my family and
 2
     friends live in Sydney, vans driving around the CBD -- yes,
     that's an escalation and then coordinated with the
 3
     communications that are coming in, yes, that's a terrorist
 4
 5
     campaign.
          I'm sorry. You said "the CBD"?
 6
 7
          Oh, sorry. Central Business District of Sydney.
     Α
 8
          Commercial area of town?
     Q
 9
          It's the city of Sydney.
     Α
10
          In Australia?
     Q
11
     Α
          Yes.
          Okay. So you are saying that, if I understand you, the
12
     Q
     appearance of what you said were, obviously, paid protestors
13
     in your neighborhood and outside Thunder Studios constituted
14
15
     terrorist tactics. Is that you're saying?
16
          It's part of the campaign that I considered terrorist
17
     tactics, yes.
18
          I see.
19
               And that's because the Kazals are of Arab descent;
20
     right? That's the reason you're using that term?
21
     Α
          No.
22
               MR. WIENER: Objection, Your Honor. Argumentive.
23
               THE COURT: Overruled.
24
               He may answer.
```

THE WITNESS: No, it's not.

25

- 1 BY MR. TAYLOR:
- Q Has nothing to do with the fact that they're originally
- 3 | from Lebanon?
- 4 A No, it's not.
- 5 Q Now, Mr. David, at some point you learned that your
- 6 CTO, Mr. Price, had registered and created domains and
- 7 Websites related to the Kazal family, including
- 8 | kazalfamilytruth.com, adamkazal.com, charifkazal.com,
- 9 tonykazal.com, and karlkazal.com; right?
- 10 A I became aware, yes.
- 11 Q And at the time he did so, he was the CTO of
- 12 Thunder Studios; right?
- 13 A When he did what? I'm sorry.
- 14 Q When he created and registered those Websites.
- 15 A I don't know when he created them. I don't know -- you
- 16 might help me there.
- 17 Q I'm sorry?
- 18 A You might be able to help me there.
- 19 | Q Well, does it sound right to you that those Websites
- 20 | first appeared in early 2016?
- 21 A I don't know.
- 22 | Q But you have no reason to doubt that it was around
- 23 then?
- 24 A If that's what you're are saying, no.
- 25 | Q Did you ever learn at any time that he had created

- 1 those Websites while he was the CTO of Thunder Studios?
- 2 A I learned about them the day I got subpoenaed. I
- 3 believe he was still the CTO then.
- 4 Q Now, you testified during the initial session this
- 5 morning that you sometimes drove to work together with
- 6 Mr. Price because he would drop his daughter off at the
- 7 | school near your house.
- 8 A We would sometimes carpool, yes.
- 9 0 But how often would you drive to work together?
- 10 A It was never until the first protest. From the first
- 11 | protest, it became quite frequent.
- 12 Q So the morning of October 26th was the first time that
- 13 | you and Mr. Price had ever driven together to
- 14 Thunder Studios?
- 15 A Might not be the first, but it was extremely rare if we
- 16 | ever did prior to that.
- 17 Q But after that it was pretty often?
- 18 A Regular, yes.
- 19 | Q And from your area of town to Thunder Studios, it's a
- 20 | pretty long drive. It's probably at least 45 minutes each
- 21 | way; right?
- 22 A A bit less.
- 23 | Q I guess it depends what time you leave, but it's
- 24 probably 25, 30 miles; right?
- 25 A Approximately.

- 1 Q On the days that you and Mr. Price would drive together
- 2 | to Thunder Studios, he would -- you would also drive home
- 3 together at the end of the day; right?
- 4 A Sometimes.
- 5 Q If not, then how would you get home?
- 6 A Other employees.
- 7 Q Oh, so other people who lived nearby would then take
- 8 you?
- 9 A Yes.
- 10 Q And while you were driving to work together, you would
- 11 | speak to Mr. Price during the commute; right?
- 12 A Yes.
- 13 Q And you would speak about things related to your
- 14 personal lives?
- 15 A Sometimes.
- 16 Q And things related to the business, of course?
- 17 A Sometimes.
- 18 | Q And you were working together on a daily basis at that
- 19 | time; right?
- 20 A No.
- 21 | Q What do you mean by that?
- 22 | A We worked for the same company, yes, but I wouldn't
- 23 | interact with him every day, no.
- 24 | O I see.
- 25 And at that time, there were about 10 or 12

- 1 | employees, I think you said?
- 2 A Direct employees, but we have potentially sometimes
- 3 hundreds of contractors.
- 4 Q Hundreds of contractors on-site at the studio?
- 5 A Yes.
- 6 Q Now, at the studio you have offices and you have studio
- 7 | space; right?
- 8 A Yes.
- 9 Q And Mr. Price worked in an office; right?
- 10 A He did.
- 11 | Q You worked in an office too; right?
- 12 A Yes.
- 13 | Q The majority of those contractors were working in the
- 14 studios, weren't they?
- 15 A Yes.
- 16 Q Now, when you became aware of the existence of these
- 17 | Websites that Mr. Price had created, did you go online and
- 18 take a look at them?
- 19 A I had seen them before, yes.
- 20 Q I see.
- 21 So prior to learning that Mr. Price was behind the
- 22 Websites, you had seen them on your own?
- 23 A Yes.
- 24 | O When was that that you first saw them?
- 25 A I couldn't tell you specifically.

```
1
          2016?
     Q
 2
          Quite possibly, yes.
 3
          I'd ask you to turn to Exhibit 43 in the binder in
 4
     front of you.
 5
               THE COURT: Are you going to move this into
 6
     evidence?
 7
               MR. TAYLOR: Oh, yes, I will, Your Honor.
 8
               Let me ask the witness if he has seen this before.
 9
          Is this the -- is this a collection of screenshots from
10
     the Kazal Family Truth Websites that we were just talking
11
     about?
12
     Α
          I'm not sure.
13
          Have you seen this before?
14
          I have seen that montage before, yes.
15
          Flipping through the few pages of this exhibit, have
16
     you seen any of these other screenshots before, whether in
17
     paper or -- format or online or some other medium?
18
          There seems to be some duplication but, yes, I've seen
19
     them.
20
               MR. TAYLOR: Your Honor, I would like to move
21
     Exhibit 43 into evidence.
22
               THE COURT: Any objection?
23
               MR. WIENER: Objection, Your Honor. There is not
     a proper foundation. The witness did not testify that he
24
25
     saw all these at the purported Website, just a Sydney -- at
```

```
least some of the articles in various formats.
 1
 2
               THE COURT: All right. The objection is
 3
     sustained.
 4
               Mr. Taylor, you need to ask some follow-up
 5
     questions, please.
               MR. TAYLOR: Sure.
 6
 7
          When you went to the Website, was it the
 8
     kazalfamilytruth.com Website?
          Honestly, I don't recall.
 9
     Α
          Do you recall seeing pictures of the Kazals on the
10
11
     Website?
12
          Not specifically, no.
13
          Do you recall seeing links to any articles about the
     Kazals on the Website?
14
15
          I remember seeing -- I know all these articles, yes.
16
          Do you recall seeing photographs or graphics embedded
17
     within the articles on the site?
18
          Definitely recall this montage of which we are looking
19
     at now.
20
          Do you recall seeing any terminology, any words,
21
     embedded upon any of the photographs on the site?
22
          No, I don't -- I remember the headlines. These are
23
     all -- these are all headlines from the Sydney Morning
     Herald articles, I believe.
24
```

Do you recall seeing those headlines on the Website?

25

- 1 A Not specifically, no.
- 2 Q Do you recall seeing certain headlines on the Website?
- 3 A I remember the headlines well, but my memory is when I
- 4 read them in the newspapers.
- 5 Q How many times did you visit the Kazal Family Truth
- 6 Website?
- 7 A I don't recall. I don't know whether I ever visited
- 8 | the Kazal Family Truth Website.
- 9 0 I thought you said you learned of its existence before
- 10 you said you received a subpoena.
- 11 A Yes.
- 12 Q How did you learn of its existence?
- 13 A I was subpoenaed.
- 14 Q I'm sorry. I thought you said you learned of the
- 15 | existence before you were subpoenaed?
- 16 A Well, I've seen -- so if you go online and you do a
- 17 | Google search under my name, dozens and dozens and dozens
- 18 | and dozens and dozens of Websites come up all
- 19 linking to imagery.
- 20 This imagery is replicated on the Internet
- 21 | hundreds and hundreds and hundreds of times. I can't in all
- 22 | honestly tell you specifically which Website I've seen a
- 23 | specific article. I remember the source articles.
- 24 | O You said you have seen the montage that's on the first
- 25 | page of this exhibit?

- 1 A Yes.
- 2 Q Where did you see it?
- 3 A Sydney Morning Herald.
- 4 Q You're saying that montage appeared in the Sydney
- 5 Morning Herald?
- 6 A Yes, created by the Sydney Morning Herald.
- 7 | Q After you were subpoenaed, did you visit the Websites,
- 8 | any of these five Websites?
- 9 A I don't recall.
- 10 Q Did you speak to Mr. Price about them?
- 11 A No.
- 12 Q How was it that you learned Mr. Price had created these
- 13 Websites?
- 14 A The subpoena was to me and Mr. Price by Mr. Kazal
- 15 | for -- I can't remember the technical term. I want to say
- 16 | cyber piracy, but I think I might be wrong.
- 17 | Q Essentially, for use of the Kazal family names in these
- 18 Websites?
- 19 A So Thunder Studios was subpoenaed by, I think, a
- 20 | California Court for cite of piracy. That was the day I
- 21 found out about it.
- 22 | Q And you found out about it at the same time you found
- 23 | out that Mr. Price was involved in that claim as well.
- 24 A Only because it was in the subpoena.
- 25 Q Right.

- 1 A Yeah.
- 2 O You saw his name there.
- 3 A Yeah.
- 4 Q And you -- are you saying that you did not subsequently
- 5 | speak to him about these Websites?
- 6 A No. I recall standing in the hallway with him and
- 7 | saying I just got subpoenaed. I told him I don't want to
- 8 know anything about it.
- 9 Q And this was in the hallway of Thunder Studios's
- 10 office?
- 11 A Yes.
- 12 Q So, obviously, he was still employed with
- 13 Thunder Studios at the time?
- 14 A When I got subpoenaed for cyber piracy, yeah.
- 15 Q So, to your knowledge, at the time that you were
- 16 | subpoenaed, had Mr. Price ever had any dealings or
- 17 | interactions with the Kazal family?
- 18 A Not that I am aware of except for the -- as CTO, his
- 19 | role was to deal with the e-mail filters that we spoke about
- 20 before.
- 21 Q And, to your knowledge, as of the time that you
- 22 | received that subpoena and spoke to Mr. Price, had he ever
- 23 | met any of the Kazal family before?
- 24 A I don't believe so.
- 25 | Q Is it your understanding that Mr. Price took it upon

- 1 himself to create these five Websites on his own?
- 2 A That's my understanding.
- 3 Q You never directed him or asked him to do anything like
- 4 that; right?
- 5 A No.
- 6 | Q You never even discussed it with him?
- 7 A No.
- 8 Q Now, you are aware that there are eight Kazal brothers;
- 9 right?
- 10 A Yes.
- 11 | Q And as far as you know, Mr. Price registered domain
- 12 names for Websites in the names of only four of the eight
- 13 | Kazal brothers. Is that your understanding?
- 14 A Certainly that's my understanding through this process,
- 15 yes.
- 16 Q So is it your understanding that Mr. Price decided to
- 17 | create Websites in the names of only four of those brothers
- 18 and not the other four?
- 19 A I'm not sure.
- 20 Q You're not aware of Websites in the names of any of the
- 21 other four brothers?
- 22 | A I'm not, no.
- 23 | Q Three of the four brothers who have Websites created in
- 24 | their names by Mr. Price, Charif, Tony, and Karl, are
- 25 | brothers that you have had business dealings in the past?

- A Right.
- Q KTC was Karl, Tony, and Charif; right? That was their
- 3 company.

1

- 4 A Correct.
- 5 Q That was the company that you had a business dispute
- 6 | with starting in 2010; right?
- 7 A Yes. Well, starting late in 2009, I believe.
- 8 Q Okay. Now, Mr. Price is no longer employed with
- 9 Thunder Studios; correct?
- 10 A No.
- 11 Q No, he is not?
- 12 A No, he is not.
- 13 Q Now, you are aware that Mr. Price is currently a
- 14 defendant in a lawsuit brought by the Kazals in connection
- 15 | with his creation of these five Websites?
- 16 A I'm aware of that.
- 17 Q You are aware of the lawsuit?
- 18 A Yes.
- 19 Q And you have spoken with Mr. Price about the lawsuit;
- 20 right?
- 21 A Not directly, no.
- 22 | Q Do you know who is paying Mr. Price's legal bills in
- 23 | that lawsuit?
- 24 A No.
- 25 Q You have no idea?

- 1 A No.
- 2 Q Do you know who his attorney is in that lawsuit?
- 3 A Yes.
- 4 | Q Who is that?
- 5 A A Floridian one, I think, called Sohn, I believe --
- 6 Q I'm sorry, just --
- 7 A A Floridian gentleman by the name of Sohn, I think "S,"
- 8 Sohn.
- 9 Q That's your current understanding?
- 10 A So I know it's being transferred to California, and I
- 11 | believe Mr. Gebelin will be representing that case here, but
- 12 I'm not specifically aware of exactly where that stands in
- 13 the transference between states.
- 14 Q Mr. Gebelin, who is sitting right here?
- 15 A Yes.
- 16 Q Also your attorney?
- 17 A Yes.
- 18 | Q On Tuesday you testified that the Kazals made an
- 19 offer -- I believe, it was during the liquidation process of
- 20 | ECL -- to purchase the Global Renewables entity; right?
- 21 A Yes.
- 22 | Q And I think you said there were several offers, one
- 23 | better than the last, in the space of a very short time
- 24 | frame; right?
- 25 A I wouldn't necessarily say better, but within a

- 1 24-hour, 36-hour period there were multiple offers made.
- 2 Q But "better" meaning more than the previous one.
- 3 A Not necessarily in dollar terms, but I think it had to
- 4 do with restrictions.
- 5 Q I see. And you said -- I think you said -- correct me
- 6 if I'm wrong -- that the reason that you didn't give as much
- 7 | credence to the Kazals' offer and instead accepted an offer
- 8 by Iron Bridge was that the Kazals' offer was somehow tied
- 9 to the Libyan Investment Authority; is that right?
- 10 A In part it is.
- 11 Q And you referenced a Mr. Zotti?
- 12 A Yes.
- 13 Q And who was he again?
- 14 A He is the -- he was the signature to the letter of --
- 15 | the qualified letter of financial support.
- 16 Q From the Libyan Investment Authority?
- 17 | A Yes.
- 18 | Q Did you have an understanding of what his role was? At
- 19 | the LIA -- sorry, Libyan Investment Authority?
- 20 A I don't recall specifically, but I believe he was one
- 21 of the senior individuals.
- 22 | Q And, again -- correct me if I am wrong -- but I believe
- 23 | you testified on Tuesday that a search of Mr. Zotti's name
- 24 | at the time would have revealed some allegations of criminal
- 25 | conduct or war crimes.

- Can you clarify that or explain that for me?
- 2 A No. I just -- Google search on his name comes up with
- 3 | a past that's, to say the least, interesting.
- 4 Q Can you elaborate.
- 5 A I don't recall the specifics. It goes back to 2011.
- 6 Q The Google search that you reference, you conducted
- 7 such a search at the time?
- 8 A I don't recall. I don't recall.
- 9 Q I am trying to understand what it was about the fact
- 10 | that the offer was linked to the Libyan Investment Authority
- 11 | that caused you to view it as problematic.
- 12 A I wouldn't have said the word "problematic." I have
- 13 | been chastised by doing some narrative; so -- but I can tell
- 14 you a little more if you like.
- 15 THE COURT: Ask your next question, please,
- 16 Counsel.
- 17 BY MR. TAYLOR:
- 18 Q My question specifically is what is it about the fact
- 19 | that the offer by the Kazals to purchase Global Renewables
- 20 was tied to the Libyan Investment Authorities caused you to
- 21 | view it as less desirable?
- 22 A So my primary consideration was, under the validation
- 23 | order of the Cayman Court, was to ensure a successful close
- 24 with a bidder. The Kazals at the time were known as
- 25 | impecunious. The dispute that ECL's liquidation was over

1 was because they refused to put in any money. 2 Charif doesn't have any money. The only person supposedly associated with the Kazals that has any money is 3 brother Karl, and so the offer from an Australian-based 4 private equity firm in cash was a fairly qualified offer. 5 6 The offer from the Kazals, KTC, which had refused to put in 7 any funding into ECL over the years, and that was what 8 caused the primary dispute, came with a prequalification 9 that they had financial support from the Libyan Investment 10 Authority. When you read the letter of that qualified 11 support, it was subject to the Libyan Investment Authority 12 doing due diligence on KTC. So it wasn't actually a firm 13 14 support of finances, it was a potential support of finances 15 subject to due diligence of the Kazals and their business. 16 Balance that up with a, sort of, cash offer from 17 an Australian well-known private investment firm. Clearly, it was a decision to go with achieving a successful close. 18 19 So if I understand you, you did a Google search on the 20 signatory to that letter, Mr. Zotti, at some point, but you 21 don't know when. 22 Correct. 23 Could have been before the decision was made, could have been some time later? 24 25 I just don't recall. It wasn't something that was that

- 1 | meritorious to me contemporaneously. My focus was dealing
- 2 | with the validation order of the Court in reaching a
- 3 successful close.
- 4 Q Did you have any reason -- would you have had any
- 5 reason to look into Mr. Zotti to conduct a Google search at
- 6 | some later point?
- 7 A Well, during the course of the overarching dispute with
- 8 | the Kazals, absolutely. You know, it was soon after there
- 9 were some press articles that emerged about the Kazals'
- 10 association with Hezbollah, and so that, you know, raised
- 11 | lots of eyebrows associated with, you know, my broader
- 12 | concerns to my health and safety for my family.
- 13 | Q This was in 2011?
- 14 A 2011, 2012, 2010. This is a period of emerging
- 15 | information during the course of that period.
- 16 Q Are you familiar with a company called Ace Dairy
- 17 | Company?
- 18 A I'm familiar with the acronym ACE. It stands for
- 19 | Australian Cattle Exporters. I don't recall specifically
- 20 "Dairy" but possibly.
- 21 | Q What was your relationship, if any, with that company?
- 22 A I'm a good friend of the CEO. I was at one stage a
- 23 | shareholder in ACE when it was an exporting company for
- 24 | cattle.
- 25 | Q How significant of a shareholder were you?

```
1
          Oh, miniscule.
     Α
 2
          In terms of percentage ownership?
     Q
 3
               MR. WIENER: If I may object, Your Honor. I don't
    understand the relevance, and it's also going into --
 4
 5
               THE COURT: Sustained.
               MR. WIENER: -- his finances.
 6
 7
    BY MR. TAYLOR:
 8
          At any point did you ever seek investment funding from
 9
     the Libyan Investment Authority on behalf of ACE Dairy
10
     Company?
11
          I recall some communications with Tony Kazal. He asked
    me to send some information on certain deals to different
12
     individuals. I don't recall who those individuals are.
13
14
     It's quite possible that the Libyan Investment Authority may
15
    be one of them. I just don't recall. This must be 2009,
16
     2010.
17
          Didn't you send at --
18
          2008.
     Α
19
          Didn't you send at least one e-mail to Mr. Zotti of the
20
     Libyan Investment Authority on behalf of ACE Dairy seeking
21
     investment funding?
22
          Quite possibly. I don't recall.
23
          You said Tony requested. Was he somehow an owner or
24
     officer of ACE Dairy company?
25
               Tony was a director at the time of Emergent
```

- 1 Capital.
- 2 Q So in your communications, if you had them with the
- 3 Libyan Investment Authority, you were doing it on behalf of
- 4 | the company that you owned shares in; right?
- 5 A Well, I was doing it on behalf of ECL.
- 6 Q Why? Was ECL the owner of ACE Dairy Company?
- 7 A No, not at all. That -- you know, you've got to
- 8 understand. At the time ECL was seeking to broker
- 9 opportunities in the UAE. So if ECL could broker an
- 10 opportunity for dairy, it would seek some, sort of, terms,
- 11 | commercial terms, on a successful close.
- 12 Q The idea being to expand the reach of a company like
- 13 ACE Dairy into the Middle East; right?
- 14 A I don't recall the specifics of it. I can only assume
- 15 | it had something to do with dairy, but outside of that I
- 16 | can't recall.
- 17 | Q You testified on Tuesday that part of the idea in
- 18 | moving to California was to, sort of, lay low and maintain a
- 19 | low profile. Do you recall that?
- 20 A To be able to move on with our lives and get some
- 21 distance in the hopes that the Kazals would move on.
- 22 | Q And when did you move to California specifically?
- 23 A 2012.
- 24 | O And at that point, did Thunder Studios exist already?
- 25 A No.

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1 When was Thunder Studios founded? 0 2 Α 2013. 3 That's when it opened? 0 4 Α Yes. 5 Opened for business, meaning? Q 6 Α Yes. 7 But it's true -- is it not -- and you said on Tuesday, 8 I believe, that you wanted to maintain a low profile here; 9 correct? As it pertains to where our children went to school, 10 11 where we lived, et cetera. 12 O I see. 13 So you are saying that opening a Hollywood film and TV and commercial studio was not inconsistent with 14 15 trying to maintain a low profile? 16 Α Well, it existed. I bought an existing business. 17 0 Oh, I see. You didn't found Thunder Studios with your family? 18 19 Well, the name, but it was originally called South Bay Α 20 Studios. It's existed for 30 years. 21 So you took over the operation of an existing studio? 22 Α Yes. 23 And that's at the same location that it is now? 24 Yes, yes. Α 25 Mr. David, it's true that, in the last several years,

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you've have been in a couple of different motion picture 1 2 productions? 3 The question's vaque. Me, Thunder Studios? 4 0 You personally on screen. 5 Α No. No, you've never been on screen on any motion picture 6 7 production at all? No TV? 8 So I've been on -- I had a cameo in a film called "9/11," but it didn't make the cut. 9 So you wound up on the floor of the editing room? 10 Q 11 Α Yes. 12 Q "Cameo" meaning playing yourself? 13 Α No, no. I played a lawyer, in fact. 14 In connection with the broader dispute with the Kazals, 15 with Charif and Tony, in particular, with the incidents that 16 you allege occurred that gave rise to this lawsuit, you've 17 not sought any therapy or counseling from any professional; 18 isn't that right? 19 Not personally, no. 20 In Exhibit 31, which we looked at on Tuesday, which I 21 believe Mr. Wiener showed you on direct, we saw a screen 22 screenshot or several pages from the kazalfamilystory.com 23 Website which included an e-mail from Tony Kazal that had 24 been, I guess, paced into the Website. 25 Do you recall that?

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- 1 A Can I go to it?
  2 Q Yeah, sure. Let's take a look. Exhibit 31, the second
  3 page of the exhibit. The second page of the exhibit,
- 4 Plaintiffs' 1871.
- Are you with me? Are we looking at the same page?
- 6 A At the exhibit --
- 7 | 0 It should be on the screen now.
- 8 A I think so. I am almost on the same page with you.
- 9 Yeah.
- 10 Q You see at the top? It's a little bit faded because of
- 11 the, I guess, the header there, but it says, "To,
- 12 Rodric David, "cc info, and various other people.
- Do you see that?
- 14 A I do.
- 15 | Q And you see at the end of that list above "Subject," it
- 16 says "Charif Kazal." He is among the cc recipients as well;
- 17 | right?
- 18 A I believe so, yeah.
- 19 Q Right before his name says "jcarroll." Who is that?
- 20 A Jacqueline Carroll.
- 21 0 Who is she?
- 22 A She's the -- at the time she was the sales and
- 23 | marketing manager for the studios.
- 24 | Q And above her name, it says "mprice." That's
- 25 Matthew Price; right?

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```
1
     Α
          Correct.
 2
          And "smanpearl."
     Q
 3
               Who is that?
 4
     Α
          A former employee.
 5
          Above that it says "mabend."
     Q
               Who is that?
 6
 7
          Former employee.
     Α
 8
          What's the name?
     Q
 9
          Mike.
     Α
10
          Mike Abend.
     Q
11
               And what did he do at Thunder Studios?
12
     Α
          He was business development.
13
          Above his name, "dfinger."
     0
               Who is that?
14
15
     Α
          David.
16
     Q
          What did he do?
17
          He was head of media.
     Α
18
          Is he still there?
     0
19
     Α
          No.
20
          And above his name is "cmartell."
     Q
21
               Who is that?
22
     Α
          Carey Martell.
23
          Is Carey Martell still employed at Thunder Studios?
24
          No, he is not.
     Α
25
          What was his title when he was there?
```

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- 1 A Vice-president, Thunder TV.
- 2 Q How long did he work for Thunder Studios?
- 3 A Eight months or so.
- 4 0 That was in 2015?
- 5 A Yes.
- 6 Q So by the time you started receiving e-mails from the
- 7 Kazals, CC'd to Mr. Martell, he wasn't even working at the
- 8 | company anymore; right? Certainly through 2016?
- 9 A Well, I don't understand the question. This one says
- 10 | it's the E-mail 163.
- 11 Q Right. So I am saying if he left in 2016 --
- 12 A What's the date of the e-mail?
- 13 Q I don't necessarily know the date of this e-mail, but I
- 14 am saying, in general, if most of the e-mails were sent in
- 15 | 2016 and into 2017, then Mr. Martell wouldn't have received
- 16 | them because he wasn't at Thunder Studios anymore; right?
- 17 | A I understand your logic. I just don't know the date of
- 18 | this e-mail to know whether this was something that he
- 19 possible could have received.
- 20 Q Now, Mr. Martell, he had some background in media and
- 21 TV before joining Thunder Studios?
- 22 A I wouldn't have said that, no.
- 23 | Q So he had no background in media and TV before you
- 24 | hired him?
- 25 A No. His claimed expertise was YouTube agregation.

```
1
          At some point before he joined Thunder Studios, he was
 2
     in the United States Army; right?
 3
          He claims to, yes.
          Mr. Martell filed a lawsuit against you and
 4
 5
     Thunder Studios in 2016. Isn't that right?
               MR. WIENER: Objection. No relevance, Your Honor.
 6
 7
               THE COURT: Sustained.
 8
               MR. TAYLOR: Your Honor, may I be heard on the
 9
     relevance of this line of questioning?
               THE COURT: Approach sidebar.
10
          (The following proceedings were held at sidebar.)
11
12
               THE COURT: Mr. Taylor.
               MR. TAYLOR: This -- Mr. Martell filed a lawsuit
13
14
     which went to trial last year, and there was a liability
15
     finding on fraud and conversion and breach of contract, and
16
     that's admissible --
17
               THE REPORTER: I can't hear you. Start from the
18
     beginning.
19
               MR. TAYLOR: From the beginning?
20
               There was a lawsuit filed in 2016 which went to a
21
     jury trial last December, and there was a liability finding
22
     with respect to claims for fraud, misrepresentation,
     conversion, and breach of contract.
23
               So I think under Rule 608, I am allowed to inquire
24
25
     about that lawsuit, Your Honor.
```

```
1
               THE COURT:
                           Who was the lawsuit against? Who are
 2
     the parties of the lawsuit?
 3
               MR. TAYLOR: Thunder Studios.
               THE COURT: Hold on.
 4
 5
               Who were the parties of the lawsuit?
               MR. TAYLOR: Carey Martell and his company. I
 6
 7
     don't remember the name off the top of my head, something
 8
     like Martell Broadcasting.
 9
               MR. GEBELIN: Martell Broadcasting.
               MR. TAYLOR: And --
10
11
               THE COURT: Hold on.
12
               Identify yourself for the record because our
     court reporter is not going to get the record if you're
13
14
     going to interrupt.
15
               MR. GEBELIN: Steven Gebelin for plaintiffs.
16
               The other company, plaintiff company, is Martell
17
     Broadcasting Systems.
18
               MR. TAYLOR: Right. And I believe the lawsuit was
19
     against --
20
               THE COURT: For what -- okay.
21
               MR. TAYLOR: -- defendants, Mr. David personally,
22
     and Thunder Studios.
23
               THE COURT: Is that accurate? You say you think.
24
               MR. TAYLOR: I mean, I looked at the Complaint.
25
     That's my understanding.
```

```
1
               THE COURT:
                           Wait a minute, Counsel.
                                                    You're saying
 2
     that's your understanding.
 3
               Do you have a document that shows --
               MR. TAYLOR: I have the Complaint but --
 4
 5
               THE COURT:
                           Okay. So, then, why do you say that's
     your understanding? You have a Complaint. Was there -- did
 6
 7
    you follow up in the lawsuit? Was it filed against
 8
     Mr. David personally? Was the judgment against Mr. David
 9
     personally?
10
               MR. TAYLOR: Well, that's the thing, Your Honor.
     There was a verdict in Phase 2 on punitive damages, which
11
12
     hasn't happened yet because it's my understanding that they
     started that portion of the trial, and there was a mistrial,
13
     and it has been rescheduled. So there's actually no final
14
15
     judgment yet because it's only been a verdict. But, no --
16
               THE COURT:
                           Okay. And do you know whether or not
17
     the verdict was against Mr. David personally? I mean --
               MR. TAYLOR: I don't have it because it's not
18
19
     public record. It's not filed because it's not --
20
               THE COURT: So then how can -- so if it's not a
     judgment, how does it come in under 608? If there's no
21
22
     judgment and there's been no -- arguably at this stage, as
23
     we there stand here -- correct me if I'm wrong -- there's no
24
     finding because there's been no judgment.
25
               MR. TAYLOR: Well, I mean, the jury reached a
```

```
1
     verdict.
 2
               THE COURT: But there's no judgment on that,
 3
     correct?
               MR. TAYLOR: That's my understanding, yes.
 4
 5
               THE COURT: So I don't see how it comes in
     because -- you are telling me there is now a Phase 2 that --
 6
 7
               MR. TAYLOR: On punitive damages.
 8
               THE COURT: There has been a mistrial?
 9
               MR. TAYLOR: There was a Phase 2 trial on punitive
10
     damages which resulted in a mistrial, and the Court has
     continued that hearing for a new trial on Phase 2, punitive
11
12
     damages, for early next year.
13
               THE COURT: And let's just -- I just want to jump
    back for a second.
14
15
               Do you know whether or not the verdict was against
16
    Mr. David personally?
17
               MR. TAYLOR: My understanding is that it was, but
18
     I don't have a copy of it because it's not available.
19
               THE COURT: So what's the basis of your
20
     understanding?
21
               MR. TAYLOR: The basis of my understanding is a
22
    phone call I had with Mr. Martell's lawyer.
23
               THE COURT:
                           I'm not sure that's enough, but I will
     allow the defense to be heard.
24
25
               MR. WIENER: Do you want to address this?
```

```
1
               There is no judgment, Your Honor, that we're aware
 2
     of, and we simply don't see the relevance to any issue that
 3
    has any probative value.
               Also prejudicial to introduce an unrelated civil
 4
     action that doesn't involve the defendants.
 5
 6
               THE COURT: All right. Look, after hearing
 7
     everything, I am still going to sustain the objection.
 8
     have no idea what this trial is about. We don't have a
 9
     verdict. We don't have anything. It's just your
     conversation with a lawyer that he says there was a finding
10
11
     against Mr. David personally.
12
               MR. TAYLOR: Well, Mr. Gebelin was counsel for
     Thunder Studios --
13
14
               THE COURT: But you have nothing. Basically, you
15
    have a phone call with a lawyer who says there was a
16
     judgment or a verdict.
17
               MR. TAYLOR: I don't have --
18
               THE COURT: That verdict has not been finalized.
19
     I don't know if it's true or not. I just don't know. And
20
     to be able to inquire of this witness who -- I can only
21
     imagine what his response would be -- who does not have any
22
     legal training. He may think he knows everything on the
23
     planet, but he doesn't have any legal training --
24
               MR. TAYLOR: I --
25
               THE COURT: -- I think it's going to be too
```

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If you get some information 1 prejudicial and less probative. 2 that you can present to the Court to show the Court that a 3 finding was made specifically against Mr. David, we can revisit this next week. But until that time, the objection 4 5 is sustained. All right. Thank you. (The following was heard in open court in the presence 6 7 of the jury:) BY MR. TAYLOR: 8 9 Mr. David, getting back to the discussion we had earlier about the protestors who appeared in your 10 neighborhood and outside Thunder Studios in October of 2016, 11 you have no specific information to suggest that defendant 12 13 Charif Kazal was involved in any way of organizing those 14 protests; correct? 15 I don't, no. 16 And you don't have any specific information to suggest 17 that -- strike that. 18 You said, I think, you moved to America in 2012? 19 Α Yes. 20 And you got involved in business in Thunder Studios and 21 you bought a home here; correct? 22 Α Yes. 23 It's your intention to stay in the United States; 24 right? You are not planning to move back to Australia, are 25 you?

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- 1 A Not at this present time, no.
- 2 Q Is it fair to say you appreciate the rights and
- 3 | freedoms that the United States accords to its the citizens?
- 4 A Yes.
- 5 Q And you are aware, are you not, that there is a
- 6 constitutional right to freedom of speech in the
- 7 United States?
- 8 A Yes.
- 9 Q And you are aware also that there is a constitutionally
- 10 | protected right to lawful assembly and peaceful protest;
- 11 right?
- 12 A Yes.
- 13 Q That's what the LAPD told you when they came out to
- 14 your neighborhood in response to your wife's call about the
- 15 | protestors, that there's a lawful right to protest; right?
- 16 A Well, I think I said that the police told me that there
- 17 is a right of peaceful protest.
- 18 Q That's what they told you?
- 19 A Yes.
- 20 | Q And you would agree with that, with what they told you;
- 21 | right?
- 22 A Yes.
- MR. TAYLOR: I have nothing further, Your Honor.
- 24 THE COURT: All right. Redirect.
- MR. WIENER: Yes, Your Honor.

1	REDIRECT EXAMINATION						
2	BY MR. WIENER:						
3	Q Good afternoon, Mr. David.						
4	A Good afternoon.						
5	Q I would like for you to turn to Exhibit 42, which is						
6	the ICAC report.						
7	I would like for you to turn to paragraph 159 of						
8	the report and its heading and read that to the jury, and						
9	we'll simultaneously display it.						
10	A (Reading:)						
11	Charif Kazal referred to DPP for						
12	knowingly giving false or misleading evidence.						
13	The Commission, however, had another						
14	matter involving Charif Kazal, which it did						
15	refer to the DPP in the Section 74A(2)						
16	statement as to whether or not the Commission						
17	should seek DPP's advice with respect to						
18	prosecuting Charif Kazal for a specific						
19	offense. The following was reported: At the						
20	commencement of his evidence in the public						
21	inquiry, Charif Kazal was asked whether it was						
22	ever his intention to settle Mr. Kelly's						
23	accounts in relation to his airfare and						
24	accommodation in relation to the May 2007 trip						
25	to the UAE. He responded no. His e-mail of						

1	23 May 2007 clearly evidences his intention to				
2	settle the account for Mr. Kelly's				
3	accommodation.				
4	The Commission is of the opinion				
5	that consideration should be given to				
6	obtaining the advice of the DPP with respect				
7	to the prosecution of Charif Kazal for an				
8	offense under Section 87 of the ICAC Act in				
9	relation to his evidence that he never				
10	intended to settle Mr. Kelly's accommodation				
11	account for the May 2007 trip.				
12	Q All right. Is it also your understanding that the ICAC				
13	had made a finding that Charif Kazal was corrupt?				
14	A Yes.				
15	Q I'd like you to turn to paragraph 135 of the same				
16	document.				
17	A Yes.				
18	Q Can you read the heading above paragraph 135.				
19	A (Reading:)				
20	The finding Charif Kazal engaged in				
21	corrupt conduct.				
22	Chapter 8 of the Commission's Vesta				
23	report contains the finding of the Commission.				
24	In respect of Charif Kazal, the commission				
25	found:				

1	In holding out the prospect of
2	employment in the UAE to Mr. Kelly and paying
3	him \$11,170 for his May 2007 flight and
4	accommodation expenses with the intention
5	these would tend to influence Mr. Kelly to
6	exercise his official Sydney Harbour Foreshore
7	Authority functions in a manner favorable to
8	Kazal business interests, Charif Kazal's
9	conduct is corrupt. This is because such
10	conduct could adversely affect, either
11	directly or indirectly, Mr. Kelly's impartial
12	exercise of his official functions (in his
13	dealings with Kazal tenancy matters) and,
14	therefore, comes within Section 8(1)(A) of the
15	Independent Commission Against Corruption Act
16	because it could constitute or involve an
17	offer under Section 249B(2)(b) of the Crimes
18	Act of corruptly giving an agent, Mr. Kelly, a
19	reward, the receipt or expectation of which
20	would tend to influence the agent to show
21	favor to any person in relation to the affairs
22	or business of the agent's principal, the
23	AHFA.
24	Q Do you know if Mr. Kazal was ever exonerated from his
25	finding that he engaged in corrupt conduct?

```
1
          No, he was not.
     Α
 2
          Do you know an individual named Jamie Brown?
     Q
 3
          I'm sorry.
     Α
          Do you know an individual named Jamie Brown?
 4
     0
 5
          I know of him. I don't know him.
     Α
 6
          I would like you to turn to paragraph 28 of the ICAC
     Q
 7
     report.
 8
     Α
          Yes.
 9
          Can you read the first two sentences of paragraph 28.
10
          I'm sorry. I am on the wrong page. Can you tell me
11
     the next -- 128. I'm sorry.
12
               Here?
13
          All right. Can you read the first two sentences of
14
     paragraph 28.
15
     Α
          (Reading:)
16
                         Jamie Brown is a former police
17
               officer and now private investigator.
18
               known Charif Kazal for several years.
19
               reasons that will be detailed later, he came
20
               to know of alleged offenses of malicious
21
               damage said to have been committed upon a
22
               motor vehicle and its owner, another former
23
               police officer and now private investigator,
               then involved in surveillance of David.
24
25
          Do you understand what that reference is to the
```

1 "surveillance of David"? 2 That's in reference to my statement on Tuesday that my 3 wife was followed and he stole my phone and drove away with me on the bonnet of his car. 4 5 All right. Do you know if e-mails from Tony Kazal were posted on the kazalfamilystory.com Website? 6 7 Yes, all the ones I received were. 8 And it's also true that Adam Kazal included references to kazalfamilystory.com on the banner that was circulated in 9 Sydney and in California? 10 11 Yes, and on the flyers and posters and placards and billboards. 12 13 I would like for you to turn to Exhibit 5 in the 14 binder. 15 Α Yes. 16 0 When did you first see this service agreement? 17 I don't recall the specifics except that it was part of 18 a discovery documentation provided to you by Mark Woodward. 19 And does this agreement relate to surveillance that was 20 conducted upon you and your family? 21 MR. TAYLOR: Objection, Your Honor. Lacks 22 foundation. 23 THE COURT: Sustained. 24 Why don't we ask the witness what is this exhibit. 25 MR. WIENER: Sure.

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1 Can you explain what this agreement is, Mr. David. Q 2 It's an e-mail exchange with Adam Kazal and a Mr. Victor Fuentes and a Mr. Mark Woodward and an attached 3 4 service agreement for surveillance and a client information 5 is Adam Kazal, and in the e-mail correspondence, Mr. Kazal agrees to the terms. 6 7 In paragraph 2 of the page -- that's the first page -does it say, "Details of investigation, 36 surveillance 8 9 hours"? Yes, it does. 10 And does it provide for ICS of California to conduct 11 these surveillance services for Adam Kazal? 12 13 Α Yes. 14 MR. WIENER: Your Honor, I would like to move 15 Exhibit 5 into evidence. 16 THE COURT: All right. Any objection? MR. TAYLOR: I would object just to the extent, 17 18 Your Honor, that there is no evidence that I heard that the 19 witness has ever even seen this document before. 20 THE COURT: All right. The objection is noted but 21 overruled. It's admitted. 22 (Trial Exhibit 5 was admitted into evidence.) BY MR. WIENER: 23 24 Mr. David, I would like for you to turn to Exhibit 20. Q

25

Α

Yes.

```
1
          Can you explain who this e-mail correspondence is
 2
     between?
 3
          Again, it's communications with a Mr. Victor Fuentes
 4
     who represents ICS, Mr. Jamie Brown, and a Mr. Mark
 5
     Woodward, again of ICS.
               They seem to be talking about the cost to put
 6
 7
     decals and wrapping on the van, payments to ICS for their
 8
     services, plus it attaches a services agreement for field
 9
     work with the client contact information, Tony Kazal/Jamie.
          All right. Can you read the sentence that begins,
10
11
     "This professional services agreement" above paragraph 1.
12
     Α
          (Reading:)
                         This professional services agreement
13
               is made between ICS of California, a
14
15
               California corporation, with an address of 300
16
               South Harbor Boulevard, Suite 804, Anaheim,
17
               California, hereafter ICS, and
               Tony Kazal/Jamie, hereafter client, to provide
18
               the services described below.
19
20
          All right. And do you believe that Jamie Brown being
21
     referenced is the same Jamie Brown referenced in the ICAC
22
     report?
          Yes, it is.
23
24
          And that's the individual who knew Charif Kazal for
25
     several years?
```

```
1
          Yes, it is.
     Α
 2
          Does that suggest to you that Charif Kazal was also
     involved in this surveillance?
 3
          Yes, it does.
 4
     Α
 5
               MR. TAYLOR: Objection. Calls for speculation.
               THE COURT: Sustained. Stricken.
 6
 7
     BY MR. WIENER:
 8
          Does it suggest to you that Tony Kazal was the one who
 9
     commissioned this field work?
          Yes, it does.
10
11
          I'd like you to turn to page 5 of this document.
12
     Α
          Yes.
13
          Can you read the e-mail at the top of the page,
14
     November 10, 2016, e-mail from Jamie Brown to Victor Fuentes
15
     with cc to Mark Woodward.
16
                This is November 10th, 2016, Jamie Brown from --
17
     to Victor Fuentes and copied to Mark, Mark Woodward.
                         (Reading:) Hi, Victor and Mark.
18
19
               Thanks for the info. I will pass to Tony.
20
               know the reply will be for me to ask about the
               van driver price. I told them as we discussed
21
22
               a reduced rate for the driver as there was no
23
               investigation work, just a licensed PI. Is
24
               the rate quote a reduced rate? And if not is
25
               there another option for the driver at a flat
```

```
1
               daily rate? We may have to forgo the PI as a
 2
               driver at $122 per hour may not be acceptable.
 3
                         Let me know your thoughts before I
 4
               send info on to Tony.
 5
               Thanks, Jamie Brown.
               MR. WIENER: I would like to move Exhibit 20 into
 6
 7
     evidence.
 8
               THE COURT: What exhibit?
 9
               MR. WIENER: It's Exhibit 20.
               THE COURT: Any objection?
10
11
               MR. TAYLOR: No objection, Your Honor.
               THE COURT: Exhibit 20 will be received into
12
13
     evidence.
14
          (Trial Exhibit 20 was admitted into evidence.)
15
     BY MR. WIENER:
16
          Mr. David, you were shown earlier the video, the only
17
     video you were shown today, but it showed you approaching a
18
     security guard station; is that correct?
19
          Yes, that's correct.
     Α
20
          During the defendants' opening statement, the reported
21
     quote that you had walked towards the protestors waving,
22
     applauding, and giving a thumbs up, end quote, was that a
23
     true statement?
24
     Α
          No.
25
          Who was it that you were waving to?
```

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- 1 A James.
- 2 Q Could you tell James's full name for the record.
- 3 A I've got a mental blank. James Fitchew.
- 4 | O How old is James?
- 5 A Seventy-two.
- 6 Q How many years has he worked for you?
- 7 A Since I purchased the facility he has been there. He's
- 8 | an icon for the studio. He's been there for a long time.
- 9 Q All right. And you were appreciative of his efforts to
- 10 | prevent the thugs from entering Thunder Studios's premises?
- 11 A More than that, yes. Very appreciative to James. He
- 12 is a wonderful man.
- 13 | Q You also mentioned there was a Thunder Studios employee
- 14 | who was harassed by the thugs.
- What was the name of that employee?
- 16 A A complaint was made by Jacqueline Carroll.
- 17 | Q What was Jacqueline Carroll's title at Thunder Studios?
- 18 A She was the sales marketing manager.
- 19 Q What did she report in the complaint?
- 20 A That when she was driving into the main entrance, that
- 21 her car was hit and they were yelling profanities at her.
- 22 Q Were you concerned for her safety?
- 23 A Very much so, all of my employees.
- 24 | O Did that cause emotional distress to you?
- 25 A Absolutely.

## Case 2:17-cv-00871-AB-SS Document 216 Filed 05/06/19 Page 124 of 143 Page 14 የተያያ 18

- 1 Q The defendants have apparently faulted you for not
- 2 seeking a restraining order against the protestors here in
- 3 California, but did you instruct your attorneys to send a
- 4 cease and desist letter to the Kazals' attorney in
- 5 Australia?
- 6 A Yes, to all of them. It's my understanding from
- 7 talking to my attorneys here in California that it has to be
- 8 done at the place of residence of the individual that's
- 9 perpetrating it.
- 10 Q And did you and Thunder Studios seek a restraining
- 11 order against Adam Kazal and Charif Kazal?
- 12 A Yes, in the Australian courts.
- 13 Q All right. I would like for you to turn to Exhibit 18.
- 14 A Yes.
- 15 | Q Is this a copy of the restraining order that was
- 16 issued?
- 17 A Yes, on the 11th of November.
- 18 | Q Do you know if Adam Kazal was sentenced to jail?
- 19 A I'm sorry? Do I know if he was?
- 20 Q Correct.
- 21 A Yes, he was.
- 22 | Q All right. And he testified at some point that the
- 23 | protest ended; correct?
- 24 | A Yes.
- 25 | O And you were still fearful after the protest ended,

```
1
     though?
 2
          Yes. We thought we were safe in America. Clearly,
 3
     because of this, that was shattered --
 4
               THE COURT: Next question, Counsel.
 5
               THE WITNESS: Sorry.
     BY MR. WIENER:
 6
 7
          Do you know what time period Adam Kazal was -- actually
 8
     served his jail sentence?
 9
          I think he was serving it concurrently. So I'm not
     exactly sure of the amount of time he was incarcerated.
10
11
     exceeded a year.
12
          Do you know the approximate calendar months?
13
          I think it may have been -- he appealed it, the
14
     original judgment, and lost that appeal. And so, to the
15
     best of my recollection, it was probably post of '17.
16
     0
          It's correct that there was no protest activity during
17
     the time that Mr. Adam Kazal was incarcerated?
18
     Α
          Correct.
19
          Is it correct that you want to maintain a low profile
20
     when you relocate back to California?
21
     Α
          Yes.
22
          And it's correct the defendants had suggested that,
23
     because you had a cameo -- or potential cameo in the 9/11
24
     film that you weren't, in fact, trying to maintain a low
25
     profile.
```

```
Do you recall when the 9/11 film was released?
 1
 2
          I want to say it was released in and around the
 3
     anniversary of 9/11 in 2017.
 4
          That was approximately a year after the Kazals had
 5
     conducted the protest outside your home?
 6
     Α
          Yes.
 7
          Is it fair to say that by that point, you were not
     0
 8
     going to be able to hide from them?
 9
     Α
          Correct.
10
     Q
          Thank you.
11
               I have nothing further.
12
               THE COURT: Further cross, Mr. Taylor.
13
                         RECROSS-EXAMINATION
     BY MR. TAYLOR:
14
15
          You said that the 9/11 film was released in
16
     September 2017?
17
          I believe that's when it was, yes.
18
          But, obviously, it was filmed much earlier than that;
19
     right?
20
     Α
          Yes.
21
          And your scene was actually filmed in 2016 before the
22
    protestors appeared at your house; isn't that true?
23
     Α
          Yes.
24
               MR. TAYLOR: Nothing further.
25
               THE COURT:
                           All right.
```

```
1
               Mr. Wiener.
 2
               MR. WIENER: Nothing further, Your Honor.
               THE COURT: May this witness step down?
 3
               No objection, sir. You may step down.
 4
 5
               Ladies and gentlemen, why don't we take a lunch
 6
              We'll come back at 1:30 this afternoon.
 7
               Again, please do not form or express any opinion
 8
     about the matter until it's finally submitted to you. Don't
 9
     talk to anyone about the case. Don't allow anyone to talk
     to you about the case and do not conduct any research of any
10
     kind on any subject matter connected with this case.
11
12
               So we'll see you back at 1:30 this afternoon.
13
     Thank you.
14
               THE CLERK: All rise for the jury.
15
               Please be seated.
16
          (The following was heard in open court outside the
17
          presence of the jury:)
18
               THE COURT: Let's have you come back at 1:30,
19
     please.
20
               Plaintiffs, you have four hours, 59 minutes and 50
21
     seconds.
22
               Defense, you have four hours, 34 minutes and one
23
     second.
24
               Mr. Wiener, you're going to call, I assume,
25
     Miss David next?
```

```
1
               MR. WIENER:
                            That's correct, Your Honor.
 2
               THE COURT: So I would humbly suggest, urge,
 3
     stress: You need to talk to the witness. I am not going to
     allow witnesses to just engage in narratives over and over
 4
 5
     and over again. Question, answer; question, answer. If it
 6
     continues, I am going to sustain my own objection.
 7
               Are we clear on that, sir?
 8
               MR. WIENER: Understood, Your Honor.
 9
               THE COURT: Thank you.
10
               I will see you back at 1:30.
               THE CLERK: All rise. This Court is in recess.
11
          (Lunch recess taken 12:28 P.M.)
12
13
14
                                --000--
15
16
17
18
19
20
21
22
23
24
25
```

```
1
                              CERTIFICATE
 2
 3
          I hereby certify that pursuant to Section 753,
 4
     Title 28, United States Code, the foregoing is a true and
 5
     correct transcript of the stenographically reported
 6
     proceedings held in the above-entitled matter and that the
 7
     transcript page format is in conformance with the
 8
     regulations of the Judicial Conference of the United States.
 9
10
     Date: May 1, 2019.
11
12
13
14
                           /S/ CHIA MEI JUI ____
15
                         Chia Mei Jui, CSR No. 3287
16
17
18
19
20
21
22
23
24
25
```

MR. GEBELIN: [4] 10/15 10/19 108/8 108/14 **MR. TAYLOR: [60]** 4/12 4/15 5/22 6/12 6/15 8/11 8/13 9/8 9/18 10/3 11/5 11/24 16/13 17/24 25/3 25/8 25/24 40/2 54/21 55/3 55/10 55/17 56/13 60/22 61/4 61/6 61/15 81/25 82/3 82/9 88/6 88/19 89/5 107/7 107/12 107/18 108/2 108/5 108/9 108/17 108/20 108/23 109/3 109/9 109/17 109/24 110/3 110/6 110/8 110/16 110/20 111/11 111/16 111/23 113/22 118/20 119/16 121/4 122/10 126/23 **MR. WIENER: [31]** 4/9 4/23 5/11 5/14 5/18 7/10 7/12 7/19 7/21 8/2 8/7 10/4 16/16 28/23 30/21 55/5 55/15 83/21 88/22 100/2 100/5 107/5 110/24 113/24 118/24 119/13 122/5 122/8 127/1 127/25 128/7 MS. BANI-ESRAILI: **[1]** 4/17 THE CLERK: [5] 4/5 81/19 82/6 127/13 128/10 THE COURT: [96] 4/11 4/14 4/19 5/10 5/12 5/15 5/20 6/8 6/14 7/7 7/11 7/16 7/20 7/24 8/3 8/8 8/12 8/23 9/17 9/19 10/5 10/18 10/22 10/25 15/21 15/24 16/15 16/17 17/23 25/6 26/1 28/25 29/5 30/22 39/23 43/1 43/3 46/13 55/2 55/4 55/9 55/12 55/16 56/9 56/12 61/2 61/5 61/13 81/11 81/22 82/2 82/4 82/8 83/22 88/4 88/21 89/1 97/14 100/4 107/6 107/9 107/11 107/25 108/3 108/10 108/19 108/22 108/25 109/4 109/15 109/19 110/1 110/4 110/7 110/12 110/18 110/22 111/5 111/13 111/17 111/24 113/23 118/22 119/15 119/19 121/5 122/7 122/9 122/11 125/3 126/11 126/24 127/2

127/17 128/1 128/8

THE REPORTER: [3] |2 #:3124 12/21 13/17 107/16 THE WITNESS: [9] 12/1 12/22 13/18 15/23 30/23 43/2 56/11 83/24 125/4

**\$11,170 [1]** 116/3 **\$122 [1]** 122/2 **\$25 [3]** 12/12 12/16 13/10 **\$25** million [3] 12/12 12/16 13/10

**'11 [2]** 11/23 12/3 '12 [2] 11/23 12/3 **'16 [1]** 22/3 **'17 [1]** 125/15

**\$49,900 [1]** 12/5

**--oOo [1]** 128/14 -and [1] 2/6

**00159 [1]** 16/23

**10 [3]** 53/22 86/25 121/14 **100 [1]** 1/9 **10th [1]** 121/16 **11 [6]** 18/19 103/9 125/23 126/1 126/3 126/15 **11:02 [1]** 82/8 **11:15** [1] 81/18 **11:21 [1]** 82/8 11th of [1] 124/17 **12 [5]** 18/19 48/8 50/14 50/19 86/25 **128 [1]** 117/11 **12:28 [1]** 128/12 **12:30 today [1]** 82/6 **135 [2]** 115/15 115/18 15 feet [1] 53/22 **15-minute [2]** 81/12 **150 [1]** 19/4 **155 [2]** 16/25 17/2 **156 [1]** 17/13 **157 [1]** 18/3 **158 [1]** 19/3 **159 [1]** 114/7 **160 [2]** 17/24 18/1 **163 [1]** 106/10

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**18 [2]** 13/14 124/13

**1:30 [2]** 127/18 128/10

**1:30 this [2]** 127/6

**1871** [1] 104/4

**1880 [1]** 2/13

**1:00 [1]** 63/15

127/12

4/6

**20 [6]** 70/16 119/24 122/6 122/9 122/12 122/14 2007 [4] 114/24 115/1 115/11 116/3 **2008 [1]** 100/18 2009 [2] 94/7 100/15 **201-7600 [1]** 2/14 **2010 [8]** 12/19 12/21 13/14 14/25 21/19 94/6 99/14 100/16 2011 [9] 11/22 12/17 13/10 13/24 14/15 14/19 97/5 99/13 99/14 2012 [5] 11/23 13/24 99/14 101/23 112/18 2013 [6] 20/14 23/17 24/2 24/11 27/17 102/2 **2014 [2]** 24/16 25/16 **2015** [5] 67/7 71/7 71/14 71/15 106/4 **2016 [26]** 22/1 24/6 24/11 27/17 28/17 29/11 33/20 44/13 45/16 59/12 75/23 77/6 77/13 80/10

80/15 84/20 88/1 106/8 106/11 106/15 107/5 107/20 112/11 121/14 121/16 126/21 **2016**, **2017** [1] 71/14 **2017** [7] 16/3 67/7 71/8 71/14 106/15 126/3 126/16 2018 [4] 1/15 3/2 4/1 23/17 **2019 [1]** 129/10 **23 [2]** 28/10 115/1 **24 [1]** 28/10 **24-hour [1]** 96/1 **249B [1]** 116/17 **25 [1]** 85/24 **26th [8]** 33/24 34/17 36/12 37/6 47/11 55/23 59/12 65/25 **26th of [4]** 52/6 52/8 65/14 65/15 **28 [4]** 117/6 117/9

117/14 129/4

2:00 o'clock [1] 63/16

**30 [5]** 5/9 7/14 7/24 70/18 102/20 **30 miles [1]** 85/24 **30 percent [1]** 70/16 **300 [1]** 120/15 **3072 [1]** 2/9 **31 [2]** 103/20 104/2 **310 [2]** 2/9 2/14 **3287 [2]** 1/23 129/15 34 [1] 127/22 341-3072 [1] 2/9 **350 [1]** 1/24 **36 [1]** 119/8

**36-hour [1]** 96/1 **39 [1]** 19/3

**40 [1]** 16/22 **42 [4]** 16/10 16/15 16/20 114/5 **43 [2]** 88/3 88/21 **4311** [1] 1/24 **44 [1]** 55/4 **45 [3]** 7/16 82/2 85/20 **487-5607 [1]** 2/5 49 [1] 17/23

**50 [1]** 127/20 50 percent [2] 12/11 70/18 **500 meters [2]** 34/8 46/1 **520 [1]** 2/8 **5607 [1]** 2/5 **59 [1]** 127/20

608 [2] 107/24 109/21 **609 [1]** 2/4

**714 [1]** 2/13 **74A [1]** 114/15 **753 [1]** 129/3 76-year-old [1] 50/11 **7600 [1]** 2/14 **7:00 A.M [2]** 34/17 47/19 **7:00 in [1]** 34/15 **7:30 [1]** 63/13

**804 [1]** 120/16 **8383 [1]** 2/8 **87 [1]** 115/8

**9/11 [5]** 103/9 125/23 126/1 126/3 126/15 90012 [1] 1/24 **90067 [1]** 2/13 **90211 [1]** 2/8 **925 [1]** 2/5 **94582 [1]** 2/4 **9:19 [2]** 1/16 4/2 **9:20 [1]** 63/8 9:30 [1] 63/8

**AB [2]** 1/7 4/6 Abend [1] 105/10 able [15] 6/17 6/19 7/6 8/15 18/13 38/12 40/21 41/10 50/12 75/8 75/17 84/18 101/20 111/20 126/8 absolutely [2] 99/8 123/25 acceptable [1] 122/2 acceptance [1] 19/11

accepted [1] 96/7

130 access [5] 49/9 57/2 57/22 59/6 75/17 accessing [3] 50/21 50/24 51/4 accommodation [4] 114/24 115/3 115/10 116/4 accomplishing [1] 39/25 accords [1] 113/3 account [2] 115/2 115/11 accounts [3] 69/22 71/22 114/23 accurate [5] 23/13 23/20 23/22 23/24 108/23 Ace [8] 99/16 99/18 99/23 100/9 100/20 100/24 101/6 101/13 achieving [1] 98/18 acronym [1] 99/18 **Act [3]** 115/8 116/15 116/18 action [3] 25/20 77/9 111/5 activity [2] 15/13 125/16 actual [1] 9/9 **ADAM [29]** 1/9 8/17 32/24 33/4 35/18 35/19 35/21 65/7 65/12 65/20 65/21 65/23 66/4 68/11 68/14 68/18 69/24 74/11 74/15 74/20 78/22 118/8 119/2 119/5 119/12 124/11 124/18 125/7 125/17 **Adam Kazal [3]** 35/18 35/19 35/21 **Adam's [1]** 69/18 adamkazal.com [1] 84/8 **addition** [1] 45/3 additional [3] 21/20 24/4 44/13 address [5] 31/14 70/6 74/4 110/25 120/15 addressed [1] 50/20

adjourned [1] 6/17 Administration [1] 62/14

admissible [2] 17/4 107/16

**ADMIT [1]** 3/12 admitted [8] 3/12 16/19 16/20 21/6 54/25 119/21 119/22 122/14

adverse [1] 14/5 adversely [1] 116/10 advice [3] 17/7 114/17 115/6

advised [1] 61/20 affairs [1] 116/21 **affect [1]** 116/10

8/6 8/22 9/16 41/17

Α	25/21	app#p <mark>acnin</mark> g [1]	attention [1] 53/8	8/6 8/22 9/16 41
after [20] 6/17 7/17	among [4] 34/22 52/1	122/17	attorney-client [2]	98/4
14/14 16/6 21/10	64/6 104/16	appropriate [1] 25/3	28/24 29/5	basically [2] 79
41/20 44/10 47/16	amongst [1] 64/4	approximate [1]	audit [2] 13/11 13/13	111/14
47/19 51/8 52/22	amount [2] 6/21	125/12	auditor's [3] 12/21	basis [6] 26/17
59/25 74/25 77/12	125/10	approximately [16]	12/23 12/24	79/11 86/18 110
85/17 91/7 99/8 111/6	amounts [1] 13/21	43/20 45/15 53/6	auditors [1] 13/12	110/21
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